



A Federal Human Rights Act

Submission to Inquiry into Australia's Human Rights Framework

Parliamentary Joint Committee on Human Rights





1 July 2023

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Acknowledgements

Good Shepherd Australia New Zealand acknowledges the Traditional Custodians of the lands and waters throughout Australia. We pay our respect to Elders, past, present and emerging, acknowledging their continuing relationship to land and the ongoing living cultures of Aboriginal and Torres Strait Islander Peoples across Australia. We recognise that the perspectives and voices of First Nations peoples should be at the forefront of conversations about family, domestic and sexual violence in Australia.

We would like to remember, honour, and acknowledge former residents of Good Shepherd Homes across Australia and New Zealand. A childhood in the institutions was often full of social, emotional, and physical hardship, and we recognise the ongoing effects of this experience into adulthood. We hear your voices, we believe your stories, and we see your struggles – as well as your resilience. Let us take these next steps together to ensure past mistakes are never repeated.

We thank practitioners from Good Shepherd client services and colleagues from across a range of departments who generously gave their time and shared their ideas and practice wisdom with us and which we have incorporated in this submission. Their insights, including from working directly with women, girls and families, enhance our understanding of current gaps in access to, and realisation of, human rights for the most marginalised members of society. We are also grateful for the work of former colleagues and past members of the Women's Research and Policy Centre at Good Shepherd whose previous written work on human rights policy advocacy has informed this current submission.



About Good Shepherd Australia New Zealand

The Sisters of Good Shepherd was established in France over 400 years ago to respond to the needs of women and girls. The first program was a refuge that offered new possibilities for women and girls who were trapped in situations of poverty and exploitation who wanted to change their lives. Saint Mary Euphrasia Pelletier carried forward this mission, expanding internationally. We are now the largest, longest running organisation supporting women and girls, located in 73 countries, and with consultative status on women and girls at the UN. Good Shepherd has worked in Australia and Aotearoa New Zealand since 1863.

We provide programs and services that support women, girls, and their families to be strong, safe, well, and connected. Our clients are at the centre of what we do. We are focused on responding to their emerging needs and on providing innovative, locally tailored responses. Our services are complemented by research, advocacy, and policy development that address the underlying structural causes of injustice and inequality to pave a way for a better tomorrow. We know one sector cannot disrupt the growing hardship in the community; we are building cross-sector coalitions to pursue our aims.



Recommendations

Good Shepherd recommends that the Joint Committee do the following to ensure that the proposed federal Human Rights Act promotes and protects the rights of all people in Australia:

Recommendation 1: Include social and economic rights in a federal Human Rights Act.

Recommendation 2: Provide individuals and groups with accessible, affordable pathways to make a complaint to the Australian Human Rights Commission, or bring court-based claims, about alleged breaches of a Human Rights Act.

Recommendation 3: Recognise a right to an adequate standard of living in a federal Human Rights Act, including access to adequate housing and essential services such as energy and telecommunications.

Recommendation 4: Consider how a right to a healthy environment can be defined to the fullest extent possible, and recognise this right in a federal Human Rights Act.

Recommendation 5: Recognise a right to adequate social security in a federal Human Rights Act.

Recommendation 6: Consider how a right to health can encompass underlying social determinants of health, freedom to exercise health-related rights, and entitlements to healthcare, and recognise this right in a federal Human Rights Act.

Recommendation 7: Fully incorporate and enact the UN Convention on the Rights of the Child (UNCRC) articles by including substantive children's rights in the proposed federal Human Rights Act.

Recommendation 8: Explicitly reference the core **guiding principles** of the UNCRC:

- The best interests of the child as a primary consideration
- The right to survival and development
- The right to express their views freely on all matters affecting them
- The right to enjoy all the rights in the UNCRC without discrimination

Recommendation 9: Include an explicit legislative obligation that requires the Government to progressively realise all rights enshrined in the proposed Human Rights Act, paying particular attention to the right to education, protection of children and protection of families.



Recommendation 10: Acknowledge and address the human rights violations that occur at a systemic level, affecting innumerable vulnerable people by explicitly mentioning in the Preamble that the rights of people made vulnerable by poverty and other forms of structural violence is a key principle against which the rights within the federal Human Rights Act need to be interpreted.

Recommendation 11: Ensure that a federally guaranteed right to education aligns with the relevant articles under international human rights treaties which Australia has ratified, including but not limited to, the UNCRC, ICESCR, the UN Declaration on the Rights of Indigenous Persons, and the Convention on the Rights of Persons with Disabilities.

Recommendation 12: Explicitly recognise the legal, political and other systemic barriers that severely undermine and restrict the protection of children and protection of families, particularly in communities who have endured longstanding oppression and deprivation of their human rights.



Executive Summary

Human rights are the **rightful inheritance** of all human beings from birth. While dominant groups enjoy relatively easeful access to their human rights in Australia, the **most marginalised people** in society, **including children**, are still gravely denied or restricted in access to the **essentials needed to live with dignity**, including far too many Aboriginal and Torres Strait Islander adults and children. This is unconscionable in a wealthy country.

As a service provider that works daily with children and families experiencing entrenched poverty, family violence and structural inequality, Good Shepherd practitioners observe breaches in the rights of the **most marginalised women and children**. As all governments are responsible for fulfilling human rights to safety and equality, the most profound changes will require strong coordination between federal, state and territory governments.

Australia has a strong sense of human rights and freedoms, but people's basic human rights are not very well protected in our law. Good Shepherd congratulates the Government on taking this **unprecedented opportunity** to set the definitive legal and political standard for human rights in this country through this overarching legislation. A well-resourced, inclusive, and comprehensive national Human Rights Act that uplifts the rights of children and minoritised people will be **transformative** in shifting longstanding disadvantage and deprivation of human rights. To do this, the proposed law must recognise that **social and economic rights are fundamental**, paying particular attention to the:

- Right to an adequate standard of living, including housing
- Right to a healthy environment
- Right to social security
- Right to health

The federal Human Rights Act must also recognise that **children's rights are human rights** and acknowledge the role of **child poverty** as the biggest structural barrier to rights. Children whose rights are denied or restricted due to poverty and racism are far more likely to become adults whose rights are breached due to systemic inequities. By guaranteeing **protection of children, protection of families**, and **the right to education**, the proposed legislation can also centre a **preventive focus**. This submission sets out Good Shepherd's major priorities for addressing the existing 'rights gaps' for people from marginalised groups, ensuring that they are meaningfully included in the proposed law.



Background

Good Shepherd Australia New Zealand (Good Shepherd) welcomes the opportunity to provide a submission to the Parliamentary Joint Committee on Human Rights Inquiry into Australia's Human Rights Framework (Inquiry).

In this submission, Good Shepherd seeks to answer the following [consultation](#) question:

Whether the Australian Parliament should enact a federal Human Rights Act, and if so, what elements it should include?

The need for a Federal Human Rights Act

Human rights are the **rightful inheritance** of all human beings from birth. Australia has ratified the seven [core](#) international human rights treaties. However, the current absence of a national Human Rights Act means that Australian citizens remain largely without legally enforceable human rights protections.

A federal Human Rights Act has the potential to make a **substantive difference** in the lives of all Australians by modernising, expanding, and meaningfully evolving Australia's human rights culture so that it is inclusive of **all citizens**. The most effective way to achieve this would be to centre the rights of communities who currently face the greatest structural barriers to realising them. As [rising inequality](#) continues to elevate dominant groups, their values and way of life, it has never been more important to promote the safety, dignity and rights of those who have been **historically and systematically left out**. This will be the ultimate **test of effectiveness** of any new human rights legislation: how does it improve the situation of children and adults enduring entrenched and intersecting structural inequities, including racial discrimination?

Why human rights matter in Australia and at Good Shepherd

In Australia, the **human rights culture** – from laws and policies to prevailing public attitudes – has typically centred their meaning for the **dominant groups**. As with having power and privilege, relatively easeful access to essential human rights can be inherently blinding, and easy to take for granted. This helps explain the dominant [narrative](#) that "Australian society was built on values that underpin human rights". In developing our legal frameworks, dominant groups have largely overlooked or overridden the human rights of certain groups, thereby causing **systematic gendered and racialised marginalisation**.

As an organisation with a particular focus, historically and in the present, on working with **the most marginalised women, girls and families**, Good Shepherd has longstanding support for an overarching national human rights framework.



Beginning in a time of little to **no state welfare**, Good Shepherd Sisters ran residential care homes and provided rising numbers of destitute young women with basic shelter, food, clothing, and education, thereby meeting their **fundamental human rights**. While the majority of residents were ‘victims of poverty or abuse or neglect’ rather than criminals, these circumstances were viewed as **a criminal offence**; this was then reflected in their [incarceration](#) and punitive [mistreatment](#).

In recognition that we are a **microcosm of our society**, Good Shepherd’s service delivery model has evolved and matured alongside the wider human rights landscape. A significant feature of our journey in the past few years has involved **reconciling our history**, including our [apology](#) to those who suffered in Good Shepherd institutional care. We continue to hold ourselves accountable for our history and recognise the need for ongoing vigilance and reflection, which are critical to the work of tackling **gendered and racialised inequity and poverty** – the systemic denial of human rights.

Good Shepherd views human rights in the context of the principles of social justice and [Catholic Social Teaching](#), which recognises the **inherent dignity and value of each person**. It also envisions a just and fair society in which the vulnerable have what they need to reach their full potential. Our programs and services today continue to fill the ‘**rights gap**’ for those experiencing hardship – those most at risk of falling through the cracks in existing social safety nets.

Through our **Family and Youth Services**, we support children, families and young people with their rights to an adequate standard of living, including housing; health; education; and social security, among others. Through our specialist **Family Violence** program, we support mainly women and children to access their rights to safety, wellbeing, and dignity – to the essentials that make life worth living. Through our **No Interest Loans** scheme, microfinance, and financial counselling programs, we support people experiencing financial hardship to access their economic and civil rights.

Since Good Shepherd has been serving women and girls, we have seen the **tangible impact** that human rights frameworks can have on the experiences of our clients accessing social services and protections. Our organisational efforts to reconcile our history further uniquely positions us to advocate for a national Human Rights Act and enriches our stance with **good faith**.

Social and economic rights are fundamental

Legislated **social and economic rights** are an essential component of any contemporary, meaningful and effective human rights response. Australia has ratified the International Covenant on Economic, Social and Cultural Rights



(ICESCR), yet government's respect for social and economic rights has waned in recent decades. A rights-based approach needs to be **reinvigorated and strengthened** through a federal Human Rights Act. The Australian Human Rights Commission (AHRC) has set out a framework for **coherent implementation** of social and economic rights in its ['Free and Equal' Position Paper](#), which Good Shepherd supports.

Good Shepherd's experiences accord with [those of the AHRC](#): 'many of the **most pressing** human rights concerns facing people in Australia relate to economic, social and cultural rights.' Good Shepherd particularly endorses a **preventive** approach to rights-based governance, that sees social and economic rights observed from the outset in policymaking, legislative development and government service delivery. While accessible remedies are essential for a Human Rights Act, government should not be relying on individuals and advocates with limited resources to defend human rights post-breach, against well-resourced public authorities.

Recommendation 1: Include social and economic rights in a federal Human Rights Act.

Recommendation 2: Provide individuals and groups with accessible, affordable pathways to make a complaint to the Australian Human Rights Commission, or bring court-based claims, about alleged breaches of a Human Rights Act.

Right to an adequate standard of living, including housing

The **right to an adequate standard of living**, including access to adequate housing, is one of the most fundamental of all human rights. The majority of human rights cannot be realised unless people's housing needs are met. This includes rights to life, liberty and security of person, education, health, work, the protection of children and families, and cultural rights.

Denied rights to adequate housing is a **core and pervasive issue** for Good Shepherd's clients. Our practitioners report that a lack of long-term, secure housing is one of the **biggest barriers to women's escape and recovery from violence**. Good Shepherd operates family violence refuges, where the intended length of stay is 6-8 weeks, but 60% of families stay between 9-30 weeks. Complex needs such as financial abuse, temporary visas and limited incomes necessitate longer stays. Limited social and private rental housing is also a major barrier to leaving crisis/transitional housing. In [Victoria, the average waiting time](#) for public housing for family violence priority applications is 17.1 months.

Good Shepherd also sees the impact of denied housing rights in its work with **homeless young people** in Victoria's Western suburbs. There is a severe shortage



of age-appropriate housing for young people who are made homeless by family violence and other factors. Run-down motels are used by government in the absence of proper crisis housing; private rental housing is very limited and typically in poor condition; and public housing, when it becomes available, is often not safe and suitable for young people. Housing insecurity and homelessness make it largely impossible for young people to stay involved with education and training and engage with mental and physical health services. This can have long-term ramifications.

Reflecting the needs of wider Australia, inadequate housing is also apparent in the lives of our No Interest Loan (NILs) recipients. The most common NILs loan is for home appliances and whitegoods (24.3% of all loans over 2018-2022), while the third biggest category is household repairs and maintenance (17% of loans). Practitioners report that in some cases, clients are having to take on these loans to buy basic appliances like heaters because their rental property is in such poor condition, and landlords—both private and social—are **refusing to provide or maintain basic housing features**. NILs clients are also taking on debt to upgrade to more affordable energy efficient coolers and heaters in the absence of minimum rental standards.

Australia urgently requires an enforceable right to adequate housing, incorporated within an Australian Human Rights Act. A clear right to housing—carrying moral and legal weight and defended by the public—would **reposition housing as a basic human need**, rather than a vehicle for **investment, wealth creation and tax avoidance**. A rights-based approach to housing could have wide-ranging ramifications across federal housing policy, by requiring:

- taxation reforms to prevent the hoarding of housing/land, the use of housing for wealth creation, and resulting price inflation
- deeper investment in new housing supply, and strong regulation of building standards to promote greater energy affordability, climate resilience, and accessibility
- federal coordination of State/Territory rent protections, to provide price controls, long-term security and eviction prohibitions/restrictions, and liveable housing conditions for the third of Australians who rent.

Beyond housing, the right to an adequate standard of living proposed by the AHRC includes the right to adequate food, water and clothing. Good Shepherd strongly supports this right, but considers it should also encompass other essential services such as **energy and telecommunications**. Adequate energy is vital in order to stay warm/cool and healthy; prepare nourishing meals; study, work and play; charge assistive devices; and maintain digital connections, including to government services. Telecommunications are increasingly



fundamental to everyday life as work, services and education digitise, and people rely on digital devices for safety, health services, and social needs.

Similar to housing, the privatisation of essential services such as energy disadvantages people who are not able to navigate complex markets and leaves them paying more than necessary to meet basic human needs.

“Privatization often involves the systematic elimination of human rights protections and further marginalisation of the interests of low-income earners and those living in poverty.”

– UN Special Rapporteur on Extreme Poverty and Human Rights

A right to an adequate standard of living under an Australian Human Rights Act would require government and its agencies to (re)consider the **human rights impacts of privatisation and profit-seeking** in essential services, and strongly regulate the services we all need for an adequate standard of living. A rights-based focus on the underlying price drivers of housing and other essential services **complements rights** to social security and work, by preserving social security and wage incomes for a range of human needs (housing, energy, food etc), and preventing an undue share of these incomes being captured by service providers.

Recommendation 3: Recognise a right to an adequate standard of living in a federal Human Rights Act, including access to adequate housing and essential services such as energy and telecommunications.

Right to a healthy environment

Human-driven climate change and environmental degradation have harmed our environment. Human life support systems – including biodiversity, and unpolluted land, air and waterways – are under threat and need to be protected by an **enforceable right to a healthy environment**. Such a right should influence federal law, policy and administrative decision-making across all portfolios with the capacity for environmental harm—and health—including climate change and energy; environment and water; agriculture, fisheries and forestry; infrastructure and transport; and taxation.

The UN Human Rights Council has formally recognised the human right to a clean, healthy and sustainable environment, and the interdependency of this right with other human rights. Its 2021 Resolution also recognises that while the human rights impacts of environmental damage are felt widely, people already made vulnerable are most at risk, including **First Nations peoples, disabled people, and women and girls**.



We see this in Good Shepherd's services, where a lack of climate and environmental health is affecting our clients. Over the last few years Good Shepherd has introduced financial recovery services in areas suffering from **repeated, climate change-induced disasters**, such as our South Australia Flood Relief program, and our East Gippsland and North-East Victoria small business and financial capability programs, which assist women and families following the 2019-20 bushfires. Good Shepherd's national No Interest Loan network also supports people recovering from disasters, for example by connecting people with financial counselling and providing loans for household repairs and appliances. Climate change-induced disasters have a profound impact on our clients' housing and financial security, access to work, and physical and mental health.

As the AHRC emphasises in its [Free and Equal Position Paper](#), **human rights and a healthy environment are interdependent**. The AHRC proposes a right to a healthy environment under an Australian Human Rights Act that would mean every person has a right to an environment that does not produce adverse health consequences in two key respects: the right not to be subject to unlawful air, water and soil pollution, and the right to access safe and uncontaminated water and nutritionally safe food. This formulation draws upon existing ICESCR rights to health and an adequate standard of living, as well as the ICCPR right to life.

Good Shepherd strongly supports the right to a healthy environment under a federal Human Rights Act. **Australia is an outlier in not recognising the right to a healthy environment** under domestic law, with [80% of UN Member States already recognising this right](#) in constitutions or legislation. Good Shepherd asks the Inquiry to consider how this right can be **realised to the fullest extent possible** in Australia, beyond the AHRC's proposal and looking to comparable jurisdictions.

Scotland, for example, is considering a [meaningful formulation of the right to a healthy environment](#) that has more extensive substantive and procedural elements than those proposed by the AHRC. **Substantive elements** include the right to non-toxic environments in which to live, work, study and play, and the right to healthy biodiversity and ecosystems. **Procedural elements** comprise rights to environmental information, public participation in environmental decision-making, and access to justice in environmental matters and effective remedies. Good Shepherd urges the Inquiry to consider how similar procedural elements can be incorporated into an Australian Human Rights Act and our broader human rights framework.

The right to a healthy environment should also interact with the **implementation of cultural rights** under a federal Human Rights Act, given the close connection between cultural rights and environmental and climate health. The UN Human



Rights Committee recently [found Australia violated Torres Strait Islanders' right to enjoy their culture](#), by failing to adequately address climate change. A preventive approach now needs to be taken under a federal Human Rights Act to prevent future cultural rights violations through environmental harm.

Recommendation 4: Consider how a right to a healthy environment can be defined to the fullest extent possible, and recognise this right in a federal Human Rights Act.

Right to social security

Alongside housing and a healthy environment, one of Australia's most pressing human rights concerns relates to **the right to social security**. Women are particularly affected by denied rights to social security, given they perform the majority of [unpaid care work as parents](#) and [other carers](#), and require income protections outside the labour force to maintain an adequate standard of living over their lifetimes. The right to social security should be a fundamental element of an Australian Human Rights Act. This would ensure that the right is reflected in social security law and policy, and in decision-making by Centrelink/Services Australia.

Inadequate and inaccessible social security is a major barrier to safety and wellbeing among Good Shepherd clients. Low JobSeeker and Disability Support Pension payments make it difficult for women to establish safe lives away from violence. Our clients are turning to debt in the face of inadequate social security payments, with Buy Now Pay Later (BNPL) used by at least [25% of financial counselling clients](#) who rely on social security as their main source of income. Our [practitioners report](#) that BNPL debt is being used for essentials such as groceries, utility bills, and children's needs.

Conditionality and 'Welfare to Work' policies are a feature of the social security framework, placing people at risk of payment suspension and destitution for failing to comply with 'mutual obligation' requirements. We have welcomed the Government's reforms in relation to the highly harmful conditions associated with the **ParentsNext** program, which was ultimately found to [limit some participants' human rights](#). A Human Rights Act is required to prevent harmful welfare conditionality in our social security system in future.

Good Shepherd sees other human rights concerns in relation to social security. Our practitioners work with **young people who are made homeless** by family violence and family breakdown, but who cannot obtain adequate social security payments to live safely and independently. Youth Allowance payments operate unfairly because they assume young people have access to parental financial support and reduce payments accordingly, unless a young person is able to



prove they cannot live at home due to ‘extreme circumstances’ such as violence. Even if a person is considered independent of their parents, Youth Allowance payments are very low. In practice, our **social security system forces young people into dangerous situations** such as rough sleeping, or return to abusive family homes. Good Shepherd’s practitioners also work with homeless young people who are denied social security because of their visa status, and face a similar inability to live safely and independently.

Other **denials of the right to social security** include an [inadequate unemployment/JobSeeker payment](#), one of the lowest unemployment payments in the OECD; [restrictive access](#) to the Disability Support Pension; and [enforcement of the ‘couple rule’](#), which results in a lower payment, or no payment, to women and others who are deemed members of couples, including in situations of family violence, and even if someone is not able to depend financially on their partner. The recovery of inaccurate social security debts through the Robodebt scheme also raises human rights issues.

While vital as a standalone human right, the right to social security also **enables the fulfilment of other fundamental social and economic rights**, including:

- the right to an adequate standard of living, by providing sufficient income for housing, food, energy and other essentials
- women’s right to freedom from gender-based discrimination and violence, by providing women with the material resources needed to live independently of abusive partners and family members
- the right to freedom from forced work, and the right to just and favourable conditions of work, by ensuring social security a) is not conditional on the performance of work, or work with unjust conditions, and b) is set at a payment level that provides a genuine income safety net, allowing people to reject or exit work with unjust conditions
- the right to health, by allowing people to purchase medication and other health items not fully covered by universal healthcare systems, and afford nourishing food, adequate housing and other social determinants of health
- the right of children to enjoy the protection they need by reason of being a child, noting children have a specific right to social security under the UN Convention on the Rights of the Child.

Recommendation 5: Recognise a right to adequate social security in a federal Human Rights Act.

Right to health

As an organisation focused on women’s economic security and children’s wellbeing in their early years, Good Shepherd strongly supports a comprehensive



right to health. Good Shepherd asks the Inquiry to consider how the right to health can be included in a federal Human Rights Act to the **fullest extent possible**, noting the AHRC has proposed in its [Free and Equal Position Paper](#) a rather limited expression of the right to health, focused on the right to access physical and mental health services without discrimination, and the right to emergency medical treatment that is immediately necessary.

The UN High Commission for Human Rights and the World Health Organization [define the right to health more broadly](#). Good Shepherd supports **inclusive elements** of a right to health, comprising the underlying **social determinants of health** such as adequate housing and nutrition, adequate incomes, healthy environmental conditions, and gender equality. These intersecting human rights have the power to transform health outcomes: the social determinants of health are estimated to [account for between 30-55% of health outcomes](#), and are typically more important than individual healthcare or lifestyle factors in driving health outcomes. A federal Human Rights Act should therefore be clear about the role of these core rights in fulfilling the right to health, to inform policymaking and service delivery beyond the health portfolio using a [Health in All Policies](#) approach.

Good Shepherd endorses a right to health that contains **entitlements**, including the provision of health services without discrimination, and the right for all health services to be available, accessible, acceptable, and of good quality. **Economic accessibility** is a priority for Good Shepherd. The **lack of Medicare coverage for dental health** is a major deficiency in Australia's universal healthcare system, and [undermines people's general health](#). Dental care is predominantly provided through the private system, making it unaffordable for most people, particularly those on low incomes who face long wait times in over-burdened public dental services. People on low incomes are forced to take on debt to pay for dental care: over the past five years, 1,163 people took out a Good Shepherd No Interest Loan for dental treatment, of which 78% were women.

Our No Interest Loan program also reveals denied health rights in relation to **disability and general healthcare**. Over the last five years, 811 people have taken out loans to purchase medical and disability aids, indicating gaps in the public healthcare system and the National Disability Insurance Scheme. People who are disabled are faced with the double financial burden of being [locked out](#) of [dignified, well paid](#) work, and paying a high price for disability and health care.

Women also face particular barriers to **safe and quality healthcare** due to the sexism inherent in medical research and institutions. Diagnosis of a range of conditions including [autism, ADHD, cancer, and metabolic diseases](#) takes years longer for women than for men. Conditions specific to women are also misdiagnosed: it takes an average of [7 years](#) from symptom onset to diagnosis



for endometriosis. Missed diagnosis can cause preventable distress, pain, and death, and contributes to financial insecurity through the cost of healthcare and lost work. This is a particular issue for Good Shepherd clients who are experiencing violence-related injury and disability. While [40% of women](#) who attend hospital due to family violence sustain a brain injury, most go undiagnosed and untreated due to misunderstanding, medical sexism, and the likelihood of child removal. A comprehensive, legislated right to health under a federal Human Rights Act would bring these gaps to the forefront of government decision-making and service delivery, and prevent government actions that undermine women's and children's rights to health.

Recommendation 6: Consider how a right to health can encompass underlying social determinants of health, freedom to exercise health-related rights, and entitlements to healthcare, and recognise this right in a federal Human Rights Act.

Children's rights are human rights

In ratifying the UN Convention on the Rights of the Child (UNCRC) in 1990, the Australian Government has guaranteed to [protect](#) "the rights of every child **without exception, to a life of dignity** and self-fulfilment." The rights enshrined in the UNCRC are indivisible and interdependent: it is difficult to access a particular right in isolation of other rights because the denial of one right precludes the enjoyment of many, if not all, others. However, over three decades later, comprehensive national legislation fully incorporating the UNCRC is **yet to be enacted**. It is worth noting that this was a specific recommendation to the Australian Government in the most recent 2019 Concluding Observations [report](#) by the UN Committee on the Rights of the Child (Child Rights Committee).

The AHRC has commendably proposed that a federal Human Rights Act include **protection of children, protection of families, and the right to education**. Good Shepherd strongly supports the inclusion of these and other rights as set out in the UNCRC within the proposed Human Rights Act. Guaranteeing and adequately resourcing these rights can help significantly progress the realisation of children's rights as enshrined in the UNCRC. It will also signal the further development of Australia's human rights culture. A **robust and inclusive human rights culture** is one that meaningfully features children's rights and takes them seriously in their own right, rather than merely incidentally to adults' rights. The federal Human Rights Act therefore offers a unique opportunity to revitalise children's rights, as set out in the UNCRC, by including them within legislation that is sure to become the cornerstone of the national human rights landscape.

This will also enhance the Act's **preventive and protective focus**. It offers the potential to disrupt ongoing **intergenerational disadvantage**. Long-serving Good Shepherd practitioners have witnessed intergenerational disadvantage, having



served multiple generations within the same family. Enjoyment of rights in childhood is perhaps the best predictor of attainment of human rights in adulthood. By ensuring that the proposed federal Human Rights Act is fully compatible with the UNCRC, the government will also be moving closer towards compliance with its international legal obligations.

Recommendation 7: Fully incorporate and enact the UNCRC articles by including substantive children’s rights in the proposed federal Human Rights Act

Recommendation 8: Explicitly reference the core [guiding principles](#) of the UNCRC:

- The best interests of the child as a primary consideration
- The right to survival and development
- The right to express their views on all matters affecting them
- The right to enjoy all the rights in the UNCRC without discrimination

Recommendation 9: Include an explicit legislative obligation that requires the Government to progressively realise all rights enshrined in the proposed Human Rights Act, paying particular attention to the right to education, protection of children and protection of families.

Inequity and poverty limit children’s rights

It is impossible to meaningfully discuss the importance of the right to education, protection of children and protection of families without examining the **prevalence of poverty, particularly child poverty**, and its intersecting impacts on these and other human and child rights. Child poverty is the [“denial of the range of rights laid out in the \[UNCRC\]...almost all of its articles, either directly or indirectly, address the issue of poverty.”](#)

Currently, **more children than adults** are living in poverty and denied their basic rights in Australia. One in eight adults and one in six children from non-Indigenous communities are living below the [poverty line](#). One in five disabled children, and over one in four Aboriginal and Torres Strait Islander children and children from a non-English speaking language background, [live in poverty](#). Discriminatory laws and policies, as well as structural inequities and racism, mean that poverty robs too many children from minoritised communities of their basic rights.

Reflecting their interdependence and indivisibility, poverty impacts children and their rights in specific and intersecting ways. Children’s **direct experience of poverty** can involve being deprived of the essentials required to meet an adequate standard of living, such as food, shelter, and clothing. Limited or a lack of access to these basic material needs and rights can, in turn, affect and undermine other core rights, such as the right to education.



Children growing up in poverty and who are affected by intersecting systems of deprivation, and particularly in First Nations communities, encounter multiple, compounding disadvantages when it comes to securing their rights. As in previous eras, child protection and the prison incarceration systems effectively **punish children, parents and families** for [being poor, disabled, traumatised from violence](#), and, in the case of Aboriginal and Torres Strait Islander parents, for being [First Nations](#). Good Shepherd provides **financial counselling and family violence services** within a number of prisons in Australia. The experiences of many of our clients reflect these national trends: many women we serve have experienced poverty, abuse, family violence, and other human rights breaches in childhood. As the prison system is a [known site](#) of human rights abuses, engagement with it entrenches barriers to realising human rights and disadvantage through [generations](#).

Recommendation 10: Acknowledge and address the human rights violations that occur at a systemic level, affecting innumerable vulnerable people by explicitly mentioning in the Preamble that the rights of people made vulnerable by poverty and other forms of structural violence is a key principle against which the rights within the federal Human Rights Act need to be interpreted.

Right to education

A quality education can be **transformative**. It is well-established that playgroups, schools, and other learning environments can be a source of opportunity, with education serving as a pathway out of poverty. The **early years** – defined here as the first five years of a child’s life – is a particularly critical ‘window of opportunity’. During this period, young children experience the most rapid brain growth and change during the human lifespan. Early childhood educational programs therefore offer great **preventive potential** in terms of mitigating the risk of future problems in accessing human rights, including the right to education and participation. They can also play a vital role in proactively promoting and protecting access to the resources and opportunities children and their parents or key caregivers need to secure children’s full potential, as is their [human right](#).

Good Shepherd implements **Building Blocks** in Victoria’s Western suburbs, an evidence-based early childhood education program, following the [Abecedarian approach](#). A supported playgroup for young caregivers (15 – 25 years) and their preschool aged children, Building Blocks aims to increase preparedness for kindergarten/school, and develop children’s social and emotional skills among others. Good Shepherd also delivers the **Sydney Young Parents Program** in NSW. The Marrickville-based program involves a weekly supported play group, where trained facilitators work with young parents and their very young children in an early child development setting and connect them with necessary services such



as speech pathologists. Supported playgroups [improve parents' social supports](#) and increase parents' ability to care for young children.

Despite the role of community service organisations like Good Shepherd in supporting very young children's rights to education, too many children in their early years and their key caregivers are still being left behind. **Disabled children** are a key cohort who are regularly confronted by a range of barriers in early childhood and other educational settings, including [insufficient available services that meet their requirements](#), and a [reluctance](#) amongst education providers to educate them. As early education requires a mix of services, too many disabled children also encounter **inconsistencies** in [moving](#) from one educational service to another. Transitions from early childhood services to primary school, for example, are made particularly difficult for some very young disabled children by [supports not being replicated](#) and a lack of equivalence in different educational settings. This restricts the ease with which they should be able to move across a range of learning environments, as their currently-abled peers do.

Recommendation 11: Ensure that a federally guaranteed right to education aligns with the relevant articles under international human rights treaties which Australia has ratified, including but not limited to, the UNCRC, ICESCR, the UN Declaration on the Rights of Indigenous Persons, and the Convention on the Rights of Persons with Disabilities.

Protection of families

Despite multiple Royal Commissions, Parliamentary Committees, and countless reports, successive governments have **failed to protect** the rights of Aboriginal and Torres Strait Islander families, with women and children bearing the brunt of these violations. One of the clearest examples of critical, systemic failures in embedding rights into policymaking is the unconscionably high number of **Aboriginal and Torres Strait Islander children in out-of-home care**. The rates of removal of First Nations children from their families has **increased** since 2008, when the Government issued the National Apology to the Stolen Generations. In 2020, there were approximately [18,900 Aboriginal and Torres Strait Islander children](#) in out-of-home care, which means that **more First Nations children are being removed** from their families today than at [any other time](#) in our history.

Called a '[new Stolen Generation](#)', [less than half](#) of these children are placed with Aboriginal and Torres Strait Islander carers, causing **irreparable separation** from their culture and communities. Social and cultural rights are best fulfilled through care at home, within their own family and community environment. The Australian Government has been rightly [urged](#) to address this **continuing crisis** of Aboriginal and Torres Strait Islander children in out-of-home care, deprived of their family



environment, often placed outside their communities, and to invest in community-led solutions which would facilitate reintegration into their families.

Protection of children

The need to take **urgent measures on abuse, neglect and violence against children** (including sexual violence) was [highlighted](#) to the Australian Government in 2019. It remains one of the most pressing children's rights violations in this country. A recent landmark [study](#) found that **62% of Australians aged over 16 reported experiencing childhood trauma**, including abuse, neglect, or exposure to family violence. Girls [experienced](#) twice as much sexual abuse as boys, and 1.5 times as much emotional abuse. In the most recent [Personal Safety Survey](#), **one in six women**, and one in nine men, reported experiencing childhood abuse and/or witnessing parental violence before the age of 15.

Good Shepherd's practice experience reinforces these findings. Of the 2044 Family Violence Multi-Agency Risk Assessments (MARAM) conducted between July 2020 and March 2023 at our Hastings family violence service centre in Victoria, the majority of clients who were assessed (68.8%) had children living with them. As part of the MARAM risk assessment, potential violence toward a woman's children is also assessed. Children in these families were assessed as being at high risk of directly experiencing violence (29%), having immediate safety risks (24%), at risk of experiencing threats (25%), and experiencing harm (31%). In 50% of cases, the family violence perpetrator was the child's parent.

As with child poverty, children's experience of family violence is **unique and multi-dimensional**. Children can [experience](#) abuse, neglect and other forms of childhood trauma directly themselves, including from multiple perpetrators, such as caregivers and siblings. They can **absorb parental or caregiver verbal conflict** and emotional abuse, as well as witness physical or other forms of assault within the home. Good Shepherd's practitioners see every day how these negatively impact on children's rights to safety, protection, an adequate standard of living, and education among others, and report that the impacts on children of **witnessing violence can be akin to directly experiencing** it themselves. The rights, needs, and wellbeing of children must therefore be considered as a "[primary focus](#)" – not a secondary consideration for action after the needs and rights of adult caregivers or parents have been parsed. The 'epidemic' of violence against children must be highlighted in federal Human Rights legislation covering the protection of children.

Recommendation 12: Explicitly recognise the legal, political, and other systemic barriers that severely undermine and restrict the protection of children and protection of families, particularly in communities that have endured longstanding oppression and deprivation of their human rights.