



National Centre for Action  
on Child Sexual Abuse

# Submission to the Inquiry into Australia's Human Rights Framework by the Parliamentary Joint Committee on Human Rights

---

Contact: Dr Leanne Beagley  
Chief Executive Officer  
[leanne.beagley@nationalcentre.org.au](mailto:leanne.beagley@nationalcentre.org.au)

June 30, 2023

# Acknowledgements

The National Centre for Action on Child Sexual Abuse (the National Centre) respectfully acknowledges and celebrates the many Traditional Owners of the lands throughout Australia and pay our respects to ancestors of this country and Elders past and present. We recognise that Aboriginal and Torres Strait Islander communities, culture and lore have existed within Australia continuously for 65,000 years.

We acknowledge the ongoing leadership of Aboriginal and Torres Strait Islander communities across Australia and those who have and continue to work tirelessly to address inequalities and improve Aboriginal and Torres Strait Islander justice outcomes for children and young people. The National Centre is committed to ensuring that the voices of those whose lives are affected by the decisions governments make should fundamentally inform those decisions. First Nations voices must be heard, raised and amplified through a Voice to Parliament. It is time for genuine and significant reform to progress healing through the Uluru Statement from the Heart.

We seek to honour the lived expertise of all survivors of child sexual abuse, harnessing all ages, cultures, abilities and backgrounds, and commit to substantially addressing the harm of child sexual abuse, now and well into the future. We recognise that there are children and young people today who are experiencing sexual abuse and dedicate ourselves to doing all we can to promote their effective protection and care.

# Our Commitment

The establishment of a National Centre to raise awareness and understanding of the impacts of child sexual abuse, support help-seeking and guide best practice advocacy and support and therapeutic treatment was a key recommendation (9.9) of the 2017 Royal Commission into Institutional Responses to Child Sexual Abuse. The Royal Commission identified that ongoing national leadership is necessary to improve outcomes for victims and survivors of past child sexual abuse and prevent future child sexual abuse.

Established in late 2021, the National Centre is a partnership between three respected organisations with strong histories of leadership in responding to the child sexual abuse – Australian Childhood Foundation, Blue Knot Foundation and the Healing Foundation.

The National Centre has an integrated governance structure that embeds the expertise of adults with lived and living experience of child sexual abuse, the rich strength of knowledge of First Nations Peoples and the voices of children and young people, as well as the expertise of researchers, practitioners, justice organisations, corporate entities, government and policy leaders.

At its core, the National Centre is a symbol of hope and an essential vehicle for action for many victims and survivors of child sexual abuse. Its vision is for a community where children are safe and victims and survivors are supported to heal and recover, free of stigma and shame – a future without child sexual abuse.

To achieve its vision, the National Centre:

- ensures the knowledge and voice of victim survivors of child sexual abuse is at the core of all of its activities
- commissions critical research; builds the workforce capability of organisations working with victims and survivors of child sexual abuse
- strives to raise community awareness of the nature of child sexual abuse and how to prevent it.

# Contents

Acknowledgements.....	1
Our Commitment.....	2
Introduction.....	2
About the National Centre for Action on Child Sexual Abuse.....	4
Focus of the submission.....	4
Summary of the submission.....	4
Foundations for a child-focused, human rights approach to preventing and responding to child sexual abuse.....	6
Child sexual abuse is prevalent and harmful: Australian Child Maltreatment Study.....	6
The basis for taking a human rights approach to child sexual abuse.....	8
The importance of a specialised focus on children as human rights holders.....	9
A child-focused approach to human rights and child sexual abuse: issues and gaps.....	11
A gap in Australian children’s human rights to be protected from sexual abuse.....	11
National Human Rights Framework and federal Human Rights Act with child-focused elements..	12
Adequacy of existing mechanisms in the federal context to protect children’s human right not to be sexually abused.....	15
The remit of the Parliamentary Joint Committee on Human Rights.....	15
The role of the National Children’s Commissioner.....	15
Summary of conclusions and recommendations.....	16
References.....	18
Appendix A – terms of reference and call for submissions.....	21

# Introduction

The National Centre for Action on Child Sexual Abuse (the National Centre) welcomes the opportunity to make a submission to the Inquiry by the Parliamentary Joint Committee on Human Rights into Australia's Human Rights Framework.

## About the National Centre for Action on Child Sexual Abuse

The National Centre is an independent organisation established to increase community understanding of child sexual abuse, promote effective ways for protecting children, guide best practice responses and reduce the harm child sexual abuse causes.

The National Centre's recently released strategic plan, *Here for Change – Five Year Strategy*, frames seven critical challenges that represent what must change in preventing and better responding to child sexual abuse. This submission forms an important part of this work, particular in addressing challenges 3, 4, 5 and 7 (National Centre for Action on Child Sexual Abuse, 2023, pp. 17, 21–37).<sup>1</sup>

## Focus of the submission

In responding to the call for submissions on the terms of reference (Appendix A), the National Centre focuses on issues and gaps relevant to the nexus between human rights and child sexual abuse. These issues and gaps demonstrate the need for reform. Reform would ensure a dedicated child-focused human rights approach becomes a central mechanism within Australian law and policy for preventing child sexual abuse. Further, it would ensure responses are better targeted when abuse is disclosed and enabling children to gain power and a voice in their own right.

Child sexual abuse is:

any act which exposes a child or young person to, or involves a child in, sexual processes beyond their understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger, or any other object, fondling of breasts, voyeurism, grooming, exhibitionism, and exposing the child or young person to or involving them in pornography or child abuse material (National Centre for Action on Child Sexual Abuse, 2023, p. 3).

With this as its singular focus, the National Centre sees victims and survivors of child sexual abuse as its primary priority population. To truly shift the dial on the prevalence and impact of child sexual abuse, the spotlight must remain on the experience and impacts of victims and survivors of child sexual abuse across all ages, stages, socioeconomic and demographic groups.

## Summary of the submission

The National Centre's submission is divided into three parts. First, we set out the context, identifying the foundations that support the need for a child-focused human rights approach to preventing and responding to child abuse. Second, we identify key issues and gaps relating to the human rights of children, preventing child sexual abuse and providing appropriate supports to victims and survivors who have experienced child sexual abuse.

---

<sup>1</sup> **Challenge 3:** Children, young people and adults with experiences of child sexual abuse (or their parents or carers) are often not identified, protected or well supported when they raise concerns or disclose; **Challenge 4:** Children and young people who have displayed harmful sexual behaviour require adults to better understand and meet their needs; **Challenge 5:** Victims and survivors of child sexual abuse are often unable to access the support and resources that meet their changing needs at different times in their lives; **Challenge 7:** Child sexual abuse will not be stopped unless there is a comprehensive framework for addressing the power dynamics and factors which enable it.

Within both parts, we make recommendations to the Parliamentary Joint Committee on Human Rights to consider in its Inquiry. A summary of the key points underpinning the recommendations is set out below.

- Child sexual abuse in Australia is prevalent and harmful. There is a need for a stronger human rights approach in Australia and one that has a child-specific focus. In the context of child sexual abuse, a child-focused human rights approach should reflect understandings of trauma, gender, culture and multiple and intersecting forms of disadvantage, and is sensitive, inclusive and responsive to the needs of different communities.
- There has been limited implementation of the United Nations Convention on the Rights of the Child that fulfils the human rights of Australian children to be protected from sexual abuse and to be provided with appropriate support that enables them to recover from such experiences. There is a clear gap in what children in Australia should expect by way of protection of their rights not to be sexually abused and what they experience in prevalence and impacts of child sexual abuse. This is evidenced by serious concerns expressed by the United Nations Committee on the Rights of the Child and by the National Children's Commissioner in reviewing Australia's protection of children's human rights, including the extent of sexual violence and abuse experienced by children in Australia. Such concerns have most recently confirmed by the 2023 Australian Child Maltreatment Study.
- The National Centre supports the development of a National Human Rights Framework and the enactment of a federal Human Rights Act in Australia. Legislative enshrinement within a rights-based framework is necessary to move away from 'welfare' focused approaches and to communicate that children are not passive objects but active participants who hold and can express rights. This also reflects the value of lived experience for those who have experienced abuse of their human rights, including victims and survivors of child sexual abuse.
  - Both the Framework and the Act should specifically include a child-focused rights-based approach, including the core underpinning principles of: the best interests of the child; non-discrimination; the right to life, survival and development; and the right to participate, be heard and taken seriously.
  - The Act should include (but not be limited to) rights for the 'protection of children', 'children in the criminal process', 'cultural rights', 'cultural rights – First Nations peoples', 'right to health', 'right to life', 'recognition and equality before the law' and 'freedom from discrimination'.
  - The Act should include an element that places a duty on public authorities relating to the participation of children. This addresses an identified need to enshrine a legal duty to consider the best interests of children in decision-making in federal human rights legislation and to ensure a holistic approach to the primacy of the best interests of the child as a consideration and in consistency of its application.
  - Inclusion in the Act of a 'participation duty' should have a focus on children as one of three priority groups based on children's best interests and their right to be heard and given effect by inclusion of specific child-focused measures to reflect this element, namely a child impact assessment tool to be developed as a requirement in any reforms.
  - Measures such as child impact assessment tools should also include particular considerations relating to: legislation, policy and decision-making areas where child rights can be violated with respect to child sexual abuse; and First Nations children to ensure that participation processes are conducted in ways that are culturally safe and impacts are understood through culturally appropriate understanding of human rights in the family and community contexts.
- Regarding the adequacy of existing mechanisms in the federal context to protect children's human rights not to be sexually abused, the National Centre makes two recommendations

to complement and support the inclusion of a child-focused human rights approach in the development of a National Human Rights Framework and a Human Rights Act. These call for an expansion to the remit of the Parliamentary Joint Committee on Human Rights and more funding to support the expansion of the role of the National Children's Commissioner.

In the third and final part of the submission, we summarise the recommendations and make some concluding comments.

## Foundations for a child-focused, human rights approach to preventing and responding to child sexual abuse

The need to increase understanding of, better respond to and prevent child sexual abuse is a national policy priority, within which the National Centre is a key initiative (Commonwealth of Australia, 2021, p. 31). Australian, state and territory governments have committed to make the 'fundamental right to be protected and safe from sexual abuse' a reality for every child (Commonwealth of Australia, 2021, p. 15).

For governments to achieve this, there is a need for a stronger human rights approach in Australia and one that has a child-specific focus. In the context of child sexual abuse, a child-focused human rights approach should reflect understandings of trauma, gender, culture and multiple and intersecting forms of disadvantage, and is sensitive, inclusive and responsive to the needs of different communities. These are critical foundations upon which to build improved prevention of child sexual abuse and more appropriate responses to children who experience child sexual abuse through listening to and supporting victims and survivors in childhood and into adulthood.

### Child sexual abuse is prevalent and harmful: Australian Child Maltreatment Study

Child sexual abuse is prevalent in Australia and causes wide-ranging and long-lasting harm. The Royal Commission revealed the extent and devastating impacts of child sexual abuse in institutions in Australia (Royal Commission into Institutional Responses to Child Sexual Abuse, 2017). However, child sexual abuse is not limited to institutional settings. It occurs in a wide range of circumstances where children have the right to be safe and free from abuse, including in the care of family and friends and when under child protection (Australian Institute of Health and Welfare, 2023).<sup>2</sup>

The 2023 Australian Child Maltreatment Study is the first nationally representative study of its kind (Australian Child Maltreatment Study, 2023).<sup>3</sup> It reported that 62.2 per cent of Australians aged 16–65+ experienced maltreatment in childhood, including child sexual abuse (Mathews et al., 2023).

Australian children, especially girls, are experiencing child sexual abuse in high numbers, and adults are living with the long-term and distressing impacts of sexual abuse experienced in their childhoods.

---

<sup>2</sup> Between 2017–18 and 2021–22, the rate of children who were subjects of notifications increased from 44 per 1,000 to 49 per 1,000 and of these, 8.8 % were of sexual abuse of children with substantiated maltreatment.

<sup>3</sup> Using a gold standard methodology in a sample of 8503 Australians, including an oversample of 3500, the Australian Child Maltreatment Study examined five types of maltreatment: physical abuse, sexual abuse, emotional abuse, neglect and exposure to domestic violence.

Key findings on child sexual abuse (Mathews et al., 2023) included:

- 28.5 per cent of Australians aged 16–65+ years have experienced sexual abuse as a child,<sup>4</sup> with girls' experiences at double the rates of boys;<sup>5</sup> and
- 25.7 per cent of young Australians aged 16–24 years old have experienced child sexual abuse,<sup>6</sup> with girls' experiences at 2.5 times the rate of boys.<sup>7</sup>

Child sexual abuse rarely happens only once and is often experienced chronically (Australian Child Maltreatment Study, 2023; Mathews et al., 2023, p. S16).<sup>8</sup>

Further, child sexual abuse is not experienced in isolation and experiences of multiple types of maltreatment is concerningly common. Of Australians aged 16–65+ years, 39.4 per cent have experienced more than one type of maltreatment, with one in four experiencing 3–5 types. Similar rates of multiple maltreatment are experienced by young Australians (Higgins et al., 2023, p. S21).<sup>9</sup> Factors such as parental separation, family mental illness and family economic hardship double the risk of experiencing multi-type maltreatment (Higgins et al., 2023, p. S22).

Australians aged 16–65+ years who experienced child sexual abuse and other forms of maltreatment are more likely to have mental health disorders in adulthood (any mental disorder, current Post-traumatic Stress Disorder (PTSD), any major depressive disorder, severe alcohol use disorder and current generalised anxiety disorder).<sup>10</sup> For Australians of all ages in the sample, sexual abuse, as well as emotional abuse and multi-type maltreatment, were most strongly associated with major adverse outcomes comprised of three serious health risk behaviours: cannabis dependence, self-harm and suicide attempt (Lawrence et al., 2023).<sup>11</sup>

The study provides 'stark and chilling evidence of the hardship many children endure across their lives as a result of the actions of those responsible for caring for them' (Scott & Mathews, 2023, S3). The prevalence and impacts of child sexual abuse (and other forms of child maltreatment) is a 'national public health concern' (Scott & Mathews, 2023, S3), accounting for an enormous burden of disease (Moore et al., 2015). Improving prevention and responses is therefore critical to improving the health of the Australian community (Scott & Mathews, 2023, S4). This compels us to act, not only on a moral basis, but because it is necessary for continued growth of Australia as a nation (Mathews, Thomas & Scott, 2023).

Finally, the findings of the Australian Child Maltreatment Study present an opportunity for reform, one that is 'evidence-informed ... [and] built on the foundation of the [United Nations] Convention on the Rights of the Child' (Australian Human Rights Commission, 2023c).

---

<sup>4</sup> For the other four types of maltreatment: 39.6% experienced exposure to domestic violence; 32% experienced physical abuse; 30.9% experienced emotional abuse; and 8.9% experienced neglect.

<sup>5</sup> Sexual abuse (girls 37.3% vs boys 18.8%); Emotional abuse (girls 35.6% vs boys 25.4%).

<sup>6</sup> For the other four types of maltreatment: 43.8% experienced exposure to domestic violence; 28.2% experienced physical abuse; 34.6% experienced emotional abuse; and 10.3% experienced neglect.

<sup>7</sup> Sexual abuse (girls 35.2% vs boys 14.5%); Emotional abuse (girls 40.5% vs boys 26.9%); Neglect (girls 12.5% vs boys 7.2%).

<sup>8</sup> Of Australians who experienced child sexual abuse, for 78% it happened more than once; 42% it happened more than 6 times; and 11% it happened more than 50 times.

<sup>9</sup> 40.2% experience more than one type of abuse and one in four experience 3–5 types of abuse.

<sup>10</sup> 2.8 times more likely to have any mental disorder (48% vs 21.6%); 4.6 times more likely to have current PTSD (7.80% vs 1.30%); 3.2 times more likely to have had any major depressive disorder (24.6% vs 8.1%); 2.6 times more likely to have severe alcohol use disorder (6.1% vs 1.9%); 3.1 times more likely to have current generalised anxiety disorder (16.1% vs 4.3%).

<sup>11</sup> Cannabis dependence (3.7% with child maltreatment vs 0.5% with no child maltreatment); Self-harm (prior year) (4.7% with child maltreatment vs 0.7% with no child maltreatment); Suicide attempt (prior year) (1.5% with child maltreatment vs 0.3% with no child maltreatment).

## The basis for taking a human rights approach to child sexual abuse

This stark and chilling evidence also compels action on a human rights basis. The rates at which Australian children experience sexual abuse present a shocking counterpoint to the human rights that they supposedly should expect under international and domestic frameworks for child safety and wellbeing.

The United Nations Convention on the Rights of the Child (the Convention), to which Australia is a signatory, sets out 54 child rights. Australia's ratification of the Convention in December 1990, conferred on it a duty to ensure that all children enjoy the rights within it. Of these, Articles 19, 34 and 39 are particularly relevant to the prevention of and responses to child sexual abuse, highlighted in the table below (United Nations Convention on the Rights of the Child, 1989).

**Table 1**

*Articles 19, 34 and 39 from the United Nations Convention on the Rights of the Child relating to child sexual abuse*

Prevention of child sexual abuse	Support in response to child sexual abuse
<p><i>Article 19 (1)</i></p> <p>'... measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.'</p>	<p><i>Article 19(2)</i></p> <p>'... such protective measures should ... include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow up ... and, as appropriate, for judicial involvement.'</p>
<p><i>Article 34</i></p> <p>'... protect the child from all forms of sexual exploitation and abuse ... in particular ... measures to prevent:</p> <p>(a) The inducement or coercion of a child to engage in any unlawful sexual activity;                      (b) The exploitative use of children in prostitution or other unlawful sexual practices;                      (c) The exploitative use of children in pornographic performances and materials.'</p>	<p><i>Article 39</i></p> <p>'... appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse ... Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.'</p>

Additionally, relevant to the documented impacts of child sexual abuse, Article 6 states that 'every child has the inherent right to life' and places a requirement for state parties to 'ensure to the maximum extent possible the survival and development of the child' (United Nations Convention on the Rights of the Child, 1989). Cultural safety, a fundamental underpinning for all aspects of child safety and wellbeing for First Nations children, is reflected throughout the Convention. For example, Article 30 requires that 'a child ... who is Indigenous shall not be denied the right ... to enjoy his or her own culture, to profess or practice his or her own religion, or to use his or her own language' (United Nations Convention on the Rights of the Child, 1989).

Momentum is building in Australia for strengthened rights-respecting approaches across a broad range of national, state and territory laws, regulations and policies that affect Australian children and young people.

The political imperative on national and state and territory governments to raise the age of criminal responsibility is growing, due to ongoing advocacy that is based on expert advice with a strong focus on the human rights of children (Davis, 2022; Buchanan & Singh, 2023). More broadly, there are calls for reforms to Australia's youth justice systems to ensure that responses to the behaviour of children respect their human rights, acknowledges the contribution of trauma histories in their offending and rectifies ongoing racial injustice (Save the Children|54 Reasons et al., 2023). Concerns continue to be expressed about human rights violations for children in service systems designed to protect them from abuse, for example, ongoing high rates of sexual exploitation of children residential care (McKibbin, Humphreys & Green 2023; Torre, 2023). The National Children's Commissioner in the Australian Human Rights Commission (AHRC) is currently conducting an inquiry to investigate opportunities for reform to systems of youth justice and child wellbeing based on evidence and the protection of human rights (Australian Human Rights Commission, 2023a).

A human rights approach to child sexual abuse is sensitive to and acknowledges that '[g]ender, class, ethnicity, cultural background, disability and sexual orientation can expose people to overlapping forms of discrimination and marginalisation' (State Government of Victoria, 2018). Certain communities sometimes, referred to as 'priority populations' or 'priority groups', are consequently more vulnerable to different forms of violence and abuse, including child sexual abuse, and may struggle to access support services for victims and survivors. These communities include First Nations peoples, culturally and linguistically diverse communities, people with disability and LGBTQIA+ people. Responses to child sexual abuse must therefore adopt a gendered and intersectional approach which acknowledges multiple and intersecting forms of disadvantage and is sensitive, inclusive and responsive to the needs of different communities.

## The importance of a specialised focus on children as human rights holders

Children's voices on their right to feel safe (National Children's Commissioner, 2019, pp. 65, 103) have traditionally not been listened to, meaning that approaches to child safety and wellbeing have tended to be dominated by adult-centric perspectives.

Adult-centric perspectives can reflect negative attitudes towards children, views that they do not have capacity to hold and express their own rights, or attitudes suggesting that they are unreliable witnesses to their own experiences. In a 2021 report, the AHRC identified that young people experience age-related discrimination or negative comments and attitudes (Australian Human Rights Commission, 2021). In a follow up 2023 report on the perceptions and attitudes of young people aged 18–25 years, the AHRC found that young people try to have their voices heard but 'struggle with not being taken seriously or trusted by the government and older generations' (Australian Human Rights Commission, 2023d, pp. 26, 28). An example of this in practice is the assessment by the United Nations Committee on Rights of the Child of Australia's progress towards fulfillment of its international obligations under the Convention. The Committee expressed:

its concern and disappointment that a protest led by children calling on government to protect the environment received a strongly worded negative response from those in authority, which demonstrates disrespect for the right of children to express their views on this important issue (United Nations Committee on Rights of the Child, 2019, para. 40).

Adult-centric approaches are also increasingly being recognised in service systems that aim to protect children, but where children's rights are predominantly viewed as being attached to those of adults who are responsible for their care. Where this is the case, there can be a tension at the interface between the authority of primary carers and other adults in service systems. In some circumstances, parental decision-making on behalf of children can operate to override their human rights. The National Children's Commissioner identified concerns about child rights in the family law system, demonstrating the need to improve the system's capacity 'in prioritising the voices of and needs of children' (National Children's Commissioner, 2019, p. 115). Research continues to identify the need for systemic change to child protection responses to domestic and family violence, to ensure that the rights, needs and voices of children are elevated and that child wellbeing is

prioritised. Within this, there has been a strong focus on the failure of such systems to keep First Nations children emotionally and culturally safe (Morgan et al., 2022).

Regarding the prevention of, and response to, child sexual abuse, how children's rights are positioned with regard to those of adults is important in light of the Australian Child Maltreatment Study findings on the factors that increase the risk of maltreatment. Those findings demonstrated that children are at twice the risk of multi-type maltreatment when there are factors such as parental separation, family mental illness and family economic hardship. There is also a strong correlation between people who have experienced or been exposed to sexual, domestic and family violence, either as a child or adult, and child sexual abuse. This suggests that when there are circumstances of hardship or stress for adults, there can be a failure to sufficiently focus on the effects of these circumstances on children, increasing the risk of human rights violations.

A strengthened focus that identifies and spotlights the separate human and legal rights of children is therefore critical to avoid problematic assumptions that can increase the risk of violations, including child sexual abuse. These include assumptions that:

- children's safety rights and interests are the same as adults who are responsible for their care
- children are passive rather than active human rights participants, lacking capacity to engage in dialogue or act to ensure their rights are upheld.

Critically, a child-focused approach is necessary to ensure that rights-based responses to child sexual abuse reflect the complex and intersecting vulnerabilities, experiences and needs of victims and survivors. Further, human rights and feelings of safety can mean different things to children dependent on cultural contexts and can reflect both individual and community concepts, particularly for First Nations children (see e.g., SNAICC, 2019).

A child-focused approach should be informed by important development, attachment, trauma and healing-informed principles (National Centre for Action on Child Sexual Abuse, 2023, p. 15). This is critical to ensure an appropriate understanding of the human rights implications of child sexual abuse in the context of different trajectories of trauma and healing that may be experienced by victims and survivors of child sexual abuse. This includes, for example, both:

- the links between child sexual abuse and impacts of related trauma on victims and survivors as children
- the impacts of trauma over the lifespan of victims and survivors and the link to human rights of adults who have experienced child sexual abuse.

Further a child-focused approach to human rights is also critical when responding to children and young people who have engaged in harmful sexual behaviours. Development of legal responses within a human rights framework is necessary to ensure that these responses are developmentally appropriate and acknowledge the role of trauma in these circumstances. More broadly, such an approach could inform how children who are charged with criminal offences are viewed and the associated criminal justice responses. While it is essential for the criminal justice system to respond to such offending behaviour by children, it should do so in a way that is developmentally appropriate and trauma-informed and protects the human rights of children who are charged with offences and victims and survivors (Save the Children|54 Reasons et al., 2023).

### **Recommendation**

A child-focused, human rights approach is foundational to preventing and responding to child sexual abuse and should form a key mechanism within law and policy focused on improving protection of human rights in Australia. In the context of child sexual abuse, a child-focused human rights approach should reflect understandings of trauma, gender, culture and multiple and intersecting forms of disadvantage, and is sensitive, inclusive and responsive to the needs of different communities.

# A child-focused approach to human rights and child sexual abuse: issues and gaps

This section identifies issues for consideration and gaps that require addressing within two areas of the Inquiry's focus relevant to the prevention of and responses to child sexual abuse, namely:

- the development of a National Human Rights Framework and enactment and elements of a federal Human Rights Act
- adequacy of existing mechanisms in the federal context to protect children's human rights.

## A gap in Australian children's human rights to be protected from sexual abuse

Despite Australia having ratified the Convention more than 30 years ago, its implementation into Australian law has been limited (Australian Human Rights Commission, 2022, p 195). This includes limited implementation that fulfils the human rights of Australian children to be protected from sexual abuse and to be provided with appropriate support that enables them to recover from such experiences.

In 2019, in assessing Australia's implementation of the Convention, the United Nations Committee on the Rights of the Child determined that Australia's current approach to upholding the human rights of children requires improvement. The Committee identified several areas of concern where urgent measures were required to be taken. This included, relevantly, 'violence, including sexual violence, abuse and neglect (para. 30), children deprived of a family environment (para. 34), mental health (para. 38), ... and administration of child justice (para 48)' (United Nations Committee on the Rights of the Child, 2019, para. 4).

In relation to 'violence, including sexual violence, abuse and neglect', while the Committee did welcome various developments, it expressed serious concerns in several areas (United Nations Committee on the Rights of the Child, 2019, para. 29). These included:

- that children of all ages experience violence and that girls suffer the highest rates of sexual abuse
- the limited information available on the support provided to child victims of family and domestic violence, including sexual violence
- that First Nations children continue to be disproportionately affected by family and domestic violence, including sexual violence, both as victims and witnesses
- that children with disabilities are more vulnerable to violence, neglect and abuse, including sexual abuse
- the limited information available regarding violence against children in remote areas, children with culturally and linguistic diverse backgrounds and LGBTQIA+ children.

Also in 2019, the National Children's Commissioner identified failures in the protection and promotion of rights of all Australian children. Further, the Commissioner found that for some groups of children, their rights are not adequately protected, resulting in negative impacts on their wellbeing and ability to thrive. These groups included First Nations children, children with disability, those from culturally and linguistically diverse backgrounds and LGBTQIA+ children. Girls and children with disability were found to be at greatest risk of sexual abuse and children with disability and First Nations children identified as being disproportionately affected by family and domestic violence (National Children's Commissioner, 2019, p. 102).

The 2023 Australian Child Maltreatment Study demonstrates the clear gap in what children should expect by way of protection of their rights not to be sexually abused and what they experience in the

prevalence and impacts of child sexual abuse. The right to be free from sexual abuse is not available for all Australian children.

## National Human Rights Framework and federal Human Rights Act with child-focused elements

The National Centre supports a National Human Rights Framework that reflects the approach in the 2010 National Human Rights Framework to 'reaffirm', 'educate', 'engage', 'protect' and 'respect' human rights in Australia (Commonwealth of Australia, 2010, p. 3). The National Centre submits that such a framework should specifically include a child-focused rights-based approach and that any further development of the 2010 framework should include consideration of this as a critical foundation for the prevention of and response to sexual abuse of children in Australia.

Further, the National Centre supports the enactment of a federal Human Rights Act in Australia, including but not limited to rights for the 'protection of children', 'children in the criminal process', 'cultural rights', 'cultural rights – First Nations peoples', 'right to health', 'right to life', 'recognition and equality before the law' and 'freedom from discrimination' (Australian Human Rights Commission, 2022, p. 18).

We support the reasons identified in *Free and Equal*, the position paper by the AHRC on a Human Rights Act for Australia (Australian Human Rights Commission, 2022, pp. 11–12). In particular, the National Centre agrees that a key outcome would be to express the value of human rights and to address a gap established above 'between what we expect from government, and how our laws and systems operate in practice' (Australian Human Rights Commission, 2022, p. 35). These reforms are necessary to:

establish a set of clear guidelines, goals and standards to measure progress that is outlined in an internationally agreed framework, gleans commitments from governments, civil society organizations, communities, families and children and recognizes an established monitoring system that ensures transparency and accountability to the task at hand, providing a good, safe and just life for our world's children. With its adoption children are no longer seen as recipients of services, but as subjects of rights and participants in actions affecting them. In addition, duty bearers – local and national governments — are held to their obligations to do all that is needed in the best interest of the child (van Oudenhoven, 2015, p. 1–2).

The National Centre supports the principles guiding the AHRC's design of a model for a Human Rights Act (Australian Human Rights Commission, 2022, p. 14–16). Within this, we highlight the following:

- Democratic—a legislative model should include participatory elements, 'by improving the quality of public debate and enabling minority and vulnerable groups to have a voice in decisions that affect them' (Australian Human Rights Commission, 2022, p. 14).
- Preventative—proactive measures are required to prevent human rights abuses, through legislation that 'embeds procedural measures to enable early consideration of human rights and fosters a culture of respect for human rights throughout the whole of government' (Australian Human Rights Commission, 2022, p. 14).
- Protective—legislation should include safeguards against human rights abuses by providing 'pathways for individuals to access justice and redress through courts', including protective mechanisms for marginalised groups (Australian Human Rights Commission, 2022, p. 14–16).

Within these general principles, identifying and including elements that are focused on children is important to ensure that the core principles that underpin a child rights approach are given meaningful expression in practice.

These are:

- the best interests of the child
- non-discrimination
- the right to life, survival and development
- the right to participate, be heard and taken seriously (Save the Children|54 Reasons et al., 2023, p 6).

An element that is critical to include is a duty on public authorities relating to the participation of children. This is necessary to ensure that government, administration and public service providers consider the impacts of laws, regulatory frameworks and policies on children's human rights. Such a duty would require public authorities to consider the above child-rights principles when making decisions concerning children and their rights, and to ensure that children can participate and have a voice in relevant processes. This could include an individual child who is subject to a particular decision and groups of children when law and policies are being developed that, if implemented, could affect their rights.

There is currently 'no overarching legal duty to consider the best interests of children in decision-making' in Australian law (Australian Human Rights Commission, 2022, p. 201). There is a need to enshrine this in federal human rights legislation to ensure a holistic approach to the primacy of the best interests of the child as a consideration and in consistency of its application. Legislative enshrinement within a rights-based framework is necessary to move away from 'welfare' focused approaches and to communicate that children are not passive objects but active participants who hold and can express rights. This also reflects the value of lived experience for those who have experienced abuse of their human rights, including victims and survivors of child sexual abuse.

Examples of legislation, policy and decision-making areas where child rights can be violated with respect to children's experiences of child sexual abuse include:

- responses to documented sexual exploitation of children in out-of-home care and youth justice settings
- legislation aimed at preventing child marriage, female genital mutilation, reproduction (unassisted or assisted) and adoption for the purposes of sexual abuse, the use of technology to conduct and/or facilitate sexual abuse and organised crime in the family context where there is child sexual abuse and facilitation of access to the child for sexual activity for others outside of the family
- suspension of the *Racial Discrimination Act 1975* (Cth) in connection with the Northern Territory Intervention for child sexual abuse and domestic and family violence
- the trauma experienced by children in court processes, even where there are specialised justice procedures, for giving evidence in child sexual abuse matters.

### **Recommendations**

The 2010 National Human Rights Framework should be further developed and a federal Human Rights Act should be enacted in Australia.

Both the Framework and the Act should specifically include a child-focused rights-based approach, as recommended by the National Centre and reflecting the core principles that underpin a child-rights approach of: the best interests of the child; non-discrimination; the right to life; survival and development; and the right to participate, be heard and taken seriously.

The Act should include (but not be limited to) rights for the 'protection of children', 'children in the criminal process', 'cultural rights', 'cultural rights – First Nations peoples', 'right to health', 'right to life' and 'recognition and equality before the law; and freedom from discrimination.

The National Centre agrees that the ‘participation duty’ as proposed by the AHRC in its position paper should have a focus on children as one of three priority groups based on children’s best interests and their right to be heard (Australian Human Rights Commission, 2022, pp. 204–205). We recommend the inclusion of specific child-focused measures to reflect this element, namely a child impact assessment tool to be developed as a requirement in any reforms. Child impact assessments have been strongly advocated for by the National Children’s Commissioner, and there are numerous examples in operation in international and some Australian state and territory jurisdictions (Australian Human Rights Commission, 2022, pp. 195–208). Measures such as child impact assessment tools should also include particular considerations for First Nations children to ensure that participation processes are conducted in ways that are culturally safe and impacts are understood through culturally appropriate understanding of human rights in the family and community contexts (SNAICC, 2019).

Such child-focused elements are necessary to ensure that, firstly, a culture of respect is fostered within government for child rights specifically and how these may be different from those of adults; and, secondly, that child-specific rights are taken into account in a proactive way when considering new or changed laws and policies so as to prevent human rights abuses (Australian Human Rights Commission, 2022, p. 67). Without a child-specific rights approach, the potential for such abuses may otherwise not be identified. Additionally, placing a positive duty on public authorities to respect and protect human rights must be framed around children as right holders and active participants in decision making that affects them and in the protective mechanisms that may operate when there has been abuse of such rights (Australian Human Rights Commission, 2022, p. 79).

### **Recommendations**

The Human Rights Act should include an element that places a duty on public authorities relating to the participation of children. This addresses an identified need to enshrine a legal duty to consider the best interests of children in decision-making in federal human rights legislation and to ensure a holistic approach to the primacy of the best interests of the child as a consideration and in consistency of its application.

Inclusion in the Act of a ‘participation duty’ should have a focus on children as one of three priority groups based on children’s best interests and their right to be heard and given effect by inclusion of specific child-focused measures to reflect this element, namely a child impact assessment tool to be developed as a requirement in any reforms.

Measures such as child impact assessment tools should also include particular considerations relating to: legislation, policy and decision-making areas where child rights can be violated with respect to child sexual abuse; and First Nations children to ensure that participation processes are conducted in ways that are culturally safe and impacts are understood through culturally appropriate understanding of human rights in the family and community contexts.

The AHRC identified that a Human Rights Act ‘enables us to articulate and embrace our values’ (Australian Human Rights Commission, 2022, p. 14) and proposed a model built on the ‘legislative dialogue model’, which allows formal dialogue between different branches of government, namely the executive, legislature and judiciary (Australian Human Rights Commission, 2022, p. 16). Human rights may, in some respects, appear intangible in nature. However, where legislative reform occurs within a well-articulated approach that reflects community values, such as prevention of and responses to child sexual abuse, this can have a ripple effect. In this way, such legislative reform can therefore, also influence dialogue at other levels in society and change the way the community understands and talks about the nexus between human rights and how we as a community prevent and respond to child sexual abuse.

## Adequacy of existing mechanisms in the federal context to protect children’s human right not to be sexually abused

To complement and support the inclusion of a child-focused human rights approach in the development of a National Human Rights Framework and a Human Rights Act, we make two recommendations. These recommendations aim to address the adequacy of existing mechanisms in the federal context to protect children’s human rights not to be sexually abused.

### The remit of the Parliamentary Joint Committee on Human Rights

The consideration of any reforms should ensure that the Inquiry’s approaches to human rights principles do not reflect a solely adult-centric view of the gaps in human rights protections but are responsive to gaps as they relate to children and young people. While we have identified some issues and gaps in this submission, more comprehensive mapping is needed to properly understand the:

- risks faced by children in violation of their human rights and how these differ to those for adults, including violence and abuse by those who are entrusted with their care
- support and participatory needs of children, including needs for priority populations who are more vulnerable to such violence and abuse, including child sexual abuse.

To ensure that such a specialised focus is taken as part of the Inquiry, the remit of the Parliamentary Joint Committee should be expanded, for example, by the establishment of a sub-committee on children’s human rights. Such a sub-committee could also play an ongoing role in scrutinising federal legislation and preparing statements of compatibility focused on child rights, thus ensuring that the parliamentary scrutiny of legislation is appropriately informed by expertise on children’s human rights.

#### Recommendation

To complement and support the inclusion of a child-focused human rights approach in the development of a National Human Rights Framework and a Human Rights Act, the remit of the Parliamentary Joint Committee should be expanded.

### The role of the National Children’s Commissioner

The National Children’s Commissioner plays a critical role in the AHRC—a role that is focused on the human rights challenges facing children. The National Commissioner’s duties include ‘advocating nationally for the rights and interests of children and young people ... promoting children’s participation in decisions that impact on them ... [and] examining laws, policies and programs to ensure they protect and uphold the rights of children and young people’ (Australian Human Rights Commission, n.d.).

If the participation duty is introduced, as we have recommended, to require government, administration and public service providers to give consideration to the impacts of laws, regulatory frameworks and policies on children’s human rights, the capacity of the National Commissioner should be expanded to support the operation of any such child-focused measures.

In 2022, the National Children’s Commissioner was funded to ‘develop an integrated child engagement strategy to be implemented ... across five national frameworks’ (Australian Human Rights Commission, 2023b, p. 72). To support the development and operation of child-focused measures under a National Human Rights Framework and Human Rights Act, such as a child impact assessment tool, the National Children’s Commissioner should be further funded to support the expansion of the role.

This could include, for example:

- facilitating engagement with children and young people to develop such a tool
- supporting implementation of the tool to inform assessments of how children’s human rights are affected by laws, frameworks and policies under consideration.

#### **Recommendation**

To complement and support the inclusion of a child-focused human rights approach in the development of a National Human Rights Framework and a Human Rights Act, the National Children’s Commissioner should be further funded to support the expansion of the role regarding the recommended child-focused measure of a child impact assessment tool.

The National Centre is concerned with human rights challenges for children in connection with child sexual abuse. As been discussed, certain communities sometimes, referred to as ‘priority populations’ or ‘priority groups’, may be more vulnerable to different forms of violence and abuse, including child sexual abuse, and may struggle to access support services for victims and survivors. Therefore, any mechanisms for consultation with children and young people to inform impact assessments relating to prevention and responses to child sexual abuse need to account for the intersecting needs of the cohorts of children who are victims and survivors. For example, there is already a need for more advocacy for children who experience sexual abuse who require additional supports to communicate or have their voices heard, for example children who are non-verbal or those too young to talk.

## Summary of conclusions and recommendations

The child-focused approach to human rights underpinning this submission is fundamental to creating a culture of child safety. Protective efforts in the prevention of child sexual abuse have tended to focus on improving children’s abilities to identify trusted adults as a key mechanism for keeping them safe from child sexual abuse. While education as a preventative mechanism is important, a child’s right to safety should be underpinned by an expectation that all adults can be trusted to ensure that this right is upheld. Children should be able to entrust adults to recognise and fulfil their responsibilities not to abuse them and to treat them with respect. A human rights approach puts the impetus on adults to recognise the status of children as rights holders and not to abuse or mistreat them, but recognise, respect and uphold their rights as humans to be free from sexual abuse.

On this basis, the identified issues and gaps in current approaches to human rights with a focus on child sexual abuse, support the following conclusions and recommended actions:

- A child-focused, human rights approach is foundational to preventing and responding to child sexual abuse and should form a key mechanism within law and policy focused on improving protection of human rights in Australia.
- In the context of child sexual abuse, a child-focused human rights approach should reflect understandings of trauma, gender, culture and multiple and intersecting forms of disadvantage, and is sensitive, inclusive and responsive to the needs of different communities.
- A Human Rights Framework should be further developed and a Human Rights Act should be enacted with the inclusion of child-focused elements that reflect principles specific to child rights and ensure participatory, preventative and protective outcomes for children. This should include:

- enshrinement of the legal duty to consider the best interests of children in decision-making in federal human rights legislation
- development and inclusion of measures, namely a child impact assessment tool, to ensure consideration of the impacts of laws, regulatory frameworks and policies on children’s human rights, and that children can exercise their right to participate in processes to inform decision-making in this regard.
- To complement and support the development of a child-focused human rights approach in the development of a national Human Rights Framework and a Human Rights Act:
  - the remit of the Joint Parliamentary Committee should be expanded to establish a sub-committee within the Inquiry and a potentially ongoing role in the scrutiny of federal legislation
  - the National Commissioner’s role should be expanded and adequately resourced to support the development of measures that give effect to the participatory duty relating to children.

These recommendations are made with the aim of ensuring that children are not forgotten in this national discussion of strengthened human rights for Australians, and to ensure that there is a specific focus on the ways in which violations of children’s human rights are perpetrated in connection with child sexual abuse.

We have made this submission with a strong focus on human rights as a preventative framework to stop child sexual abuse, but also as a framework that informs responses to child sexual abuse when it does occur. There are additional layers of complexity in ensuring that such responses are appropriate and trauma-informed and help-seeking interactions are healing, both for children who experience child sexual abuse and for children and young people who have engaged in harmful sexual behaviours. However, implementing a human rights approach is a first step in preventing and responding to child sexual abuse in Australia.

This submission is a building block in the National Centre’s forward focus on the potential for human rights to address the key challenges in preventing to and responding to child sexual abuse (National Centre for Action on Child Sexual Abuse, 2023). We welcome further opportunities to contribute to the Inquiry within any specialised focus on the issues as they relate to children’s human rights and child sexual abuse.

# References

- Australian Child Maltreatment Study. (2023). *National prevalence of child maltreatment in Australia*. Queensland University of Technology (QUT). <https://www.acms.au/findings/>, accessed 1 May 2023.
- Australian Human Rights Commission. (n.d.). *About children's rights*. Australian Human Rights Commission. <https://humanrights.gov.au/our-work/childrens-rights/about-childrens-rights-0>, accessed 1 June 2023.
- Australian Human Rights Commission. (2023a). *Call for Submissions: Youth Justice and Child Wellbeing Reform across Australia*. Australian Human Rights Commission. [https://humanrights.gov.au/have-your-say/call-submissions-youth-justice-and-child-wellbeing-reform-across-australia?fbclid=IwAR3w1tavRmxL6yoP3nnTgCdK6XB\\_A1rIO4B699fuJaTxAQ7ZbGkh\\_2qX8rw](https://humanrights.gov.au/have-your-say/call-submissions-youth-justice-and-child-wellbeing-reform-across-australia?fbclid=IwAR3w1tavRmxL6yoP3nnTgCdK6XB_A1rIO4B699fuJaTxAQ7ZbGkh_2qX8rw), accessed 1 June 2023.
- Australian Human Rights Commission. (2023b). *Inquiry into Australia's Human Rights Framework: Australian Human Rights Commission Submission to the Parliamentary Joint Committee on Human Rights*. Sydney, Australia: Australian Human Rights Commission. [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Human\\_Rights/Human\\_RightsFramework/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/Human_RightsFramework/Submissions), accessed 24 June 2023.
- Australian Human Rights Commission. (2023c). *National Children's Commissioner calls for action after 'shocking' research on child maltreatment in Australia*. Australian Human Rights Commission. <https://humanrights.gov.au/about/news/media-releases/national-childrens-commissioner-calls-action-after-shocking-research>, accessed 10 June 2023.
- Australian Human Rights Commission. (2023d). *Talking about my generation*. Sydney, Australia: Australian Human Rights Commission.
- Australian Human Rights Commission. (2022). *Free and equal – Position paper: A Human Rights Act for Australia*. Sydney, Australia: Australian Human Rights Commission.
- Australian Institute of Health and Welfare. (2023). *Child Protection Australia 2021–22*, Cat. No: CW 92 (6 June 2023). <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2021-22/contents/about>, accessed 7 June 2023.
- Buchanan, L., & Singh, M. (2023, April 27). Lives are at stake. We need Australian governments to heed expert advice and raise the age of criminal responsibility to 14. *The Guardian*. <https://www.theguardian.com/commentisfree/2023/apr/27/childrens-lives-are-at-stake-we-need-governments-to-heed-expert-advice-and-raise-the-age-to-14>
- Commonwealth of Australia, Attorney-General's Department. (2010). *Australia's Human Rights Framework*. Barton, Australia: Commonwealth of Australia.
- Commonwealth of Australia, Department of the Prime Minister and Cabinet. (2021). *National strategy to prevent and respond to child sexual abuse 2021–2030*. Ngunnawal Country, Barton, Australia: Department of the Prime Minister and Cabinet Commonwealth of Australia.
- Davis, C. (2022). *The minimum age of criminal responsibility: A quick guide* (Research Paper Series, 2021–22, June 17). Commonwealth of Australia, Department of Parliamentary Services. [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp2122/Quick\\_Guides/MinimumAgeCriminalResponsibility](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp2122/Quick_Guides/MinimumAgeCriminalResponsibility)

- Higgins, D.J., Mathews, B., Pacella, R., Scott, J.G., Finkelhor, D., Meinck, F., Erskine, H.E., Thomas, H.J., Lawrence, D.M., Haslam, D.M., Malacova, E., & Dunne, M.P. (2023). The prevalence and nature of multi-type child maltreatment. *The Medical Journal of Australia*, 218(S6), S19–S25. <https://doi.org/10.5694/mja2.51868>
- Lawrence, D.M., Hunt, A., Mathews, B., Haslam, D.M., Malacova, E., Dunne, M.P., Erskine, H.E., Higgins, D.J., Finkelhor, D., Pacella, R., Meinck, F., Thomas, H.J., & Scott, J.G. (2023). The association between child maltreatment and health risk behaviours and conditions throughout life in the Australian Child Maltreatment Study. *The Medical Journal of Australia*, 218(S6), S34–S39. <https://doi.org/10.5694/mja2.51877>
- Mathews, B., Pacella, R.E., Scott, J.G., Finkelhor, D., Meinck, F., Higgins, D.J., Erskine, H.E., Thomas, H.J., Lawrence, D., Haslam, D.M., Malacova, E., & Dunne, M.P. (2023). The prevalence of child maltreatment in Australia: Findings from a national survey. *The Medical Journal of Australia*, 218(S6), S13–S18. <https://doi.org/10.5694/mja2.51873>
- Mathews, B., Thomas, H.J., & Scott, J.G. (2023). A new era in child maltreatment prevention: Call to action. *The Medical Journal of Australia*, 218(S6), S47–S51. <https://doi.org/10.5694/mja2.51872>
- McKibbin, G., Humphreys, C., & Green, J. (2023, April 12). Child sexual exploitation in residential care: The Australian state of Victoria must properly resource and implement policies to prevent child sexual exploitation. *Pursuit* (Health and Wellbeing). University of Melbourne. <https://pursuit.unimelb.edu.au/articles/we-must-act-now-to-stop-child-sexual-exploitation-in-residential-care>
- Moore, S.E., Scott, J.G., Ferrari, A.J., Mills, R., Dunne, M.P., Erskine, H.E., Devries, K.M., Degenhardt, L., Vos, T., Whiteford, H.A., McCarthy, M., & Norman, R.E. (2015). Burden attributable to child maltreatment in Australia. *Child Abuse & Neglect*, 48, 208–220. <https://doi.org/10.1016/j.chiabu.2015.05.006>
- Morgan, G., Butler, C., French, R., Creamer, T., Hillan, L., Ruggiero, E., Parsons, J., Prior, G., Idagi, L., Bruce, R., Gray, T., Jia, T., Hostalek, M., Gibson, J., Mitchell, B., Lea, T., Clancy, K., Barber, U., Higgins, D., ... Trew, S. (2022). *New ways for our families: Designing an Aboriginal and Torres Strait Islander cultural practice framework and system responses to address the impacts of domestic and family violence of children and young people* (Research report, 06/2022). ANROWS (Australian National Research Organisation for Women's Safety). <https://www.anrows.org.au/publication/new-ways-for-our-families-designing-an-aboriginal-and-torres-strait-islander-cultural-practice-framework-and-system-responses-to-address-the-impacts-of-dfv-on-children-and-yo/>
- National Centre for Action on Child Sexual Abuse. (2023). *Here for Change—Five Year Strategy 2023–2027*. Australia: National Centre for Action on Child Sexual Abuse. <https://nationalcentre.org.au/about/>
- National Children's Commissioner. (2019). *Children's Rights Report 2019—In Their Own Right: Children's Rights in Australia*. Australia: Australian Human Rights Commission. <https://humanrights.gov.au/our-work/childrens-rights/publications/childrens-rights-report-2019>
- Royal Commission into Institutional Responses to Child Sexual Abuse. (2017). *Royal Commission into Institutional Responses to Child Sexual Abuse Final Report*. Barton, Australia: Commonwealth of Australia.
- Save the Children|54 Reasons, dandolopartners, & McDougall, J. (2023). *Putting children first: A rights respecting approach to youth justice in Australia April 2023*. Australia: Save the Children|54 Reasons. <https://www.savethechildren.org.au/media/media-releases/save-the-children-report-shines-light-on-child>

- Scott, J.G., & Mathews, B. (2023). Introducing the Australian Child Maltreatment Study: Baseline evidence for a national public health challenge. *The Medical Journal of Australia*, 218(S6), S3–S4. <https://doi.org/10.5694/mja2.51867>
- Singateh, M. F. (2021). *Impact of coronavirus disease on different manifestations of sale and sexual exploitation of children: Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material (A/HRC/46/31)*. United Nations. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/014/47/PDF/G2101447.pdf?OpenElement>
- SNAICC – National Voice for our Children. (2019). *The Aboriginal and Torres Strait Islander child placement principle: A guide to support implementation*. Australia: SNAICC – National Voice for our Children. <https://www.snaicc.org.au/the-aboriginal-and-torres-strait-islander-child-placement-principle-a-guide-to-support-implementation/>
- State Government of Victoria (2017). Diversity and Intersectionality Framework. Victoria, Australia: State Government of Victoria. <https://www.actionpvaw.org.au/assets/library/diversity-and-intersectionality-framework-vic-gov-branded-8-may-upload-to-site-not-available-online.pdf>
- The National Coalition to Prevent Child Sexual Abuse & Exploitation, Public Policy Committee. (2015). *Six pillars for prevention: Why we need stronger prevention policies*. The National Coalition to Prevent Child Sexual Abuse & Exploitation. <https://www.preventtogether.org/Resources/Documents/PreventionCoalitionPillarsFinal2015.pdf>
- Torre, G. (2023, April 5). Victoria Children’s Commissioner urges action as new data shows ongoing sexual exploitation of children in care. *National Indigenous Times*. <https://nit.com.au/05-04-2023/5500/childrens-commission-urges-action-as-new-data-shows-exploitation-of-children-in-care>
- United Nations Committee on the Rights of the Child. (2019). *Concluding observations on the combined 5<sup>th</sup> and 6<sup>th</sup> periodic reports of Australia: Committee on the Rights of the Child, 82<sup>nd</sup> session (1 November 2019)*. <https://digitallibrary.un.org/record/3863406?ln=en>
- United Nations Convention on the Rights of the Child*. (1989). United Nations General Assembly resolution 44/25 (20 November 1989). <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>
- van Oudenhoven, R. J. (2015) A rights-based approach and its implications: A Bangladeshi example. *Child Rights and Social Protection Issues*. [https://www.academia.edu/19613453/A\\_Rights\\_Based\\_Approach\\_and\\_Its\\_Implications\\_A\\_Bangladeshi\\_Example](https://www.academia.edu/19613453/A_Rights_Based_Approach_and_Its_Implications_A_Bangladeshi_Example)

# Appendix A – terms of reference and call for submissions

The Parliamentary Joint Committee on Human Rights has been asked:

- to review the scope and effectiveness of Australia's 2010 Human Rights Framework and the National Human Rights Action Plan
- to consider whether the Framework should be re-established, as well as the components of the Framework and any improvements that should be made
- to consider developments since 2010 in Australian human rights laws (both at the Commonwealth and State and Territory levels) and relevant case law; and
- to consider any other relevant matters.

The Committee has invited submissions (due 1 July) in relation to the matters in the terms of reference and, in particular:

- whether the Australian Parliament should enact a federal Human Rights Act, and if so, what elements it should include (including by reference to the Australian Human Rights Commission's recent Position Paper)
- whether existing mechanisms to protect human rights in the federal context are adequate and if improvements should be made, including:
  - to the remit of the Parliamentary Joint Committee on Human Rights
  - the role of the Australian Human Rights Commission
  - the process of how federal institutions engage with human rights, including requirements for statements of compatibility; and
- the effectiveness of existing human rights Acts/Charters in protecting human rights in the Australian Capital Territory, Victoria and Queensland, including relevant caselaw and relevant work done in other states and territories.

Supported by



Australian Government  
Department of Social Services



Australian  
Childhood  
Foundation



**blueknot**  
empowering recovery from complex trauma



**HealingFoundation**  
Strong Spirit • Strong Culture • Strong People