

knowmore
free legal help for survivors

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

17 July 2023

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About knowmore

Our service

knowmore legal service (knowmore) is a nation-wide, free and independent community legal centre providing legal information, advice, representation and referrals, education and systemic advocacy for victims and survivors of child abuse. Our vision is a community that is accountable to survivors and free of child abuse. Our aim is to facilitate access to justice for victims and survivors of child abuse and to work with survivors and their supporters to stop child abuse.

Our service was established in 2013 to assist people who were engaging with or considering engaging with the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission). From 1 July 2018, knowmore has been funded to deliver legal support services to assist survivors of institutional child sexual abuse to access their redress options, including under the National Redress Scheme (NRS). knowmore also receives funding to deliver financial counselling services to people participating in the NRS, and to work with other services in the NRS support network to support and build their capability. From 1 January 2022, our services were expanded to assist survivors who experienced child sexual abuse in non-institutional settings. From 1 March 2022, we have also been funded to provide legal and financial counselling support to people engaging with the Territories Stolen Generations Redress Scheme (Territories Redress Scheme).

knowmore uses a multidisciplinary model to provide trauma-informed, client-centred and culturally safe legal assistance to clients. knowmore has offices in Sydney, Melbourne, Brisbane, Perth, Adelaide and Darwin. Our service model brings together lawyers, social workers and counsellors, Aboriginal and Torres Strait Islander engagement advisors and financial counsellors to provide coordinated support to clients.

knowmore is funded by the Commonwealth Government, represented by the Departments of Attorney-General and Social Services and the National Indigenous Australians Agency.

Our clients

In our Royal Commission-related work, from July 2013 to the end of March 2018, knowmore assisted 8,954 individual clients. The majority of those clients were survivors of institutional child sexual abuse. Almost a quarter (24%) of the clients assisted during our Royal Commission work identified as Aboriginal and/or Torres Strait Islander peoples.

Since the commencement of the National Redress Scheme for survivors of institutional child sexual abuse on 1 July 2018 to 31 May 2023, knowmore has received 90,642 calls to its 1800 telephone line and has completed intake processes for, and has assisted or is currently assisting, 15,166 clients. Almost 2 in 5 clients (37%) identify as Aboriginal and/or Torres Strait Islander peoples. About 1 in 6 clients (16%) are classified as priority clients due to advanced age and/or immediate and serious health concerns including terminal cancer or other life-limiting illness.

knowmore's submission

knowmore strongly supports improved human rights protections for people in Australia, including an Australian Human Rights Charter or Act (Charter). We endorse the submission by the Charter of Rights campaign coalition, an alliance of 90 organisations across the Australian community. That submission recommends that:

*The Parliamentary Joint Committee on Human Rights recommend the Federal Government implement an Australian Charter of Human Rights.*¹

knowmore strongly supports this recommendation. We make some general comments below as to why we consider there is a need for a Charter, and what elements it should include. We then make some specific comments about:

- the current inadequate protection of the human rights of children and of victims and survivors of child sexual abuse
- the benefits of a Charter for children, victims and survivors
- the need for specific protection for victims' and survivors' rights under a Charter
- the participation duty and the equal access to justice duty proposed by the Australian Human Rights Commission in its position paper, *Free and Equal: A Human Rights Act for Australia* (the position paper).²

List of recommendations

Recommendation 1

The Australian Government should implement an Australian Human Rights Charter, taking the Australian Human Rights Commission's position paper, *Free and Equal: A Human Rights Act for Australia*, as a starting point.

Recommendation 2

An Australian Human Rights Charter should include specific protection for the rights of victims and survivors of crime, taking state and territory victims' rights charters in Australia as a starting point.

1 Charter of Rights campaign coalition, *Submission to the Parliamentary Joint Committee on Human Rights inquiry into Australia's human rights framework*, July 2023, p 5.

2 Australian Human Rights Commission, *Free and Equal: A Human Rights Act for Australia*, December 2022, <humanrights.gov.au/sites/default/files/free_equal_hra_2022_-_main_report_rgb_0_0.pdf>.

General comments as to the need for a Charter and what elements it should include

knowmore recognises that there is inadequate protection for the human rights of people in Australia, contributing to abuses of people's human rights and inadequate responses when this occurs. We consider a Charter to be a basic and important protection for people's human rights.³ The position paper provides detailed evidence and reasoning in support of a Charter, summarised effectively in the following passage:

There is a gap between what we expect from government, and how our laws and administrative systems operate in practice.

Human rights are not always respected and promoted by governments in Australia ...

The need for better human rights protections in Australia can be summarised by one simple proposition: we should have proper protection of human rights at the national level because everybody's human rights matter, all the time.⁴

As the position paper observes, Australia is the only liberal democracy without an overarching Charter.⁵ Victoria, Queensland and the Australian Capital Territory have all implemented charters at the state and territory level, providing 'important guidance and lessons as to how a Human Rights Act could operate federally'.⁶

In knowmore's view, the position paper provides a strong starting point for considering what elements a Charter should include. While we do not propose to comment on every aspect of the position paper's model, we particularly support:

- the protection of 'all people within Australia's territory and all people subject to Australia's jurisdiction without discrimination'⁷
- the protection of civil, political, economic, social and cultural rights⁸
- the protection of children's rights, including children's right to protection and children's rights in the criminal process⁹
- the inclusion of a participation duty and an equal access to justice duty¹⁰ (see further discussion on pages 12 to 14)

3 See Charter of Rights campaign coalition, *Submission to the Parliamentary Joint Committee on Human Rights inquiry into Australia's human rights framework*.

4 Australian Human Rights Commission, p 35.

5 Australian Human Rights Commission, p 46.

6 Australian Human Rights Commission, p 34.

7 Australian Human Rights Commission, p 23.

8 Australian Human Rights Commission, p 17.

9 Australian Human Rights Commission, pp 110 and 112.

10 Australian Human Rights Commission, p 17.

- a focus on preventing human rights abuses, including through the dialogue model¹¹
- a direct path to a remedy for each right protected by the Charter¹²
- a statutory provision for periodic reviews of the Charter.¹³

We consider that the position paper's model would be enhanced by specific protection for the rights of victims and survivors of crime, which would include victims and survivors of child sexual abuse. This is discussed further below (see pages 11 to 12).

Recommendation 1

The Australian Government should implement an Australian Human Rights Charter, taking the Australian Human Rights Commission's position paper, *Free and Equal: A Human Rights Act for Australia*, as a starting point.

Inadequate protection of the human rights of children and of victims and survivors

knowmore considers that Australia's legal framework presently fails to adequately protect the human rights of children and of victims and survivors of child sexual abuse.

As noted above on page 5, inadequate protections contribute to abuses of people's human rights and inadequate responses when this occurs. In the context of our work, we particularly see this in the widespread, ongoing problem of child sexual abuse, and the significant barriers many victims and survivors face in seeking safety, justice and redress.

Before discussing these issues in more detail, we wish to emphasise the importance of an intersectional approach to understanding the experiences of children, victims and survivors. An intersectional approach recognises that social groups are not homogenous or fixed, and that identities can overlap to create compounding experiences of discrimination.¹⁴ Many of knowmore's clients experience intersectional marginalisation. For example, in a recent submission to the Joint Standing Committee on Implementation of the National Redress Scheme, we provided information about the experiences of survivors who are both Aboriginal and/or Torres Strait Islander people and people with disability.¹⁵ These survivors

11 Australian Human Rights Commission, p 16.

12 Australian Human Rights Commission, p 26.

13 Australian Human Rights Commission, p 30.

14 United Nations Network on Racial Discrimination and Protection of Minorities, *Guidance Note on Intersectionality, Racial Discrimination and Protection of Minorities*, 22 September 2022, p 3, <www.ohchr.org/sites/default/files/documents/issues/minorities/30th-anniversary/2022-09-22/GuidanceNoteonIntersectionality.pdf>.

15 knowmore, *Submission to the Joint Standing Committee on Implementation of the National Redress Scheme*, 27 February 2023, pp 25–26, <knowmore.org.au/wp-content/uploads/2023/03/submission-joint-standing-committee-on-implementation-of-the-

may have experiences that are distinct from Aboriginal and/or Torres Strait Islander survivors who do not have a disability, and from survivors with disability who are not Aboriginal and/or Torres Strait Islander peoples. Children and survivors who experience intersectional marginalisation disproportionately experience human rights abuses.

The widespread, ongoing problem of child sexual abuse

Child sexual abuse is obviously a severe violation of a child's human rights, with 'profound and lasting impacts' for many survivors.¹⁶ These include impacts on physical and mental health, relationships, connection to culture, education, employment and economic security,¹⁷ all of which, of course, have human rights implications.

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) highlighted that child sexual abuse has been widespread in Australian institutions, affecting 'countless thousands' of children and occurring 'in almost every type of institution where children reside or attend for educational, recreational, sporting, religious or cultural activities'.¹⁸ Almost 8,000 survivors shared their experiences with the Royal Commission in private sessions, identifying almost 3,500 institutions where child sexual abuse occurred.¹⁹

This only presents a partial image of the scale of child sexual abuse in Australia, as many survivors of child sexual abuse did not speak with the Royal Commission.²⁰ Further, the Royal Commission did not address non-institutional child sexual abuse — for example, child sexual abuse within families.²¹ A fuller image has emerged from the Australian Child Maltreatment Study, which recently reported that 28.5% of the Australian population had experienced child sexual abuse.²²

[national-redress-scheme-cth.pdf](#)>.

- 16 Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), *Final report: volume 3, impacts*, December 2017, p 9, <www.childabuseroyalcommission.gov.au/impacts>.
- 17 Royal Commission, *Final report: volume 3*, p 10.
- 18 Royal Commission, *Final report: preface and executive summary*, December 2017, pp 1 and 5 <www.childabuseroyalcommission.gov.au/preface-and-executive-summary>.
- 19 Royal Commission, *Final information update*, December 2017, p 1, <www.childabuseroyalcommission.gov.au/sites/default/files/final_information_update.pdf>.
- 20 A survivor's decision about whether, when and how to disclose that they have experienced child sexual abuse is influenced by a variety of factors. Survivors often face barriers to disclosure and some survivors never disclose. See Royal Commission, *Final report: volume 4, identifying and disclosing child sexual abuse*, December 2017, pp 9–11, <www.childabuseroyalcommission.gov.au/identifying-and-disclosing-child-sexual-abuse>.
- 21 Royal Commission, *Final report: volume 1, our inquiry*, December 2017, p 18, <www.childabuseroyalcommission.gov.au/our-inquiry>.
- 22 D Haslam, B Mathews, R Pacella, JG Scott, D Finkelhor, DJ Higgins, F Meinck, HE Erskine, HJ Thomas, D Lawrence and E Malacova, *The prevalence and impact of child maltreatment in Australia: findings from the Australian Child Maltreatment Study: brief report*, Australian Child Maltreatment Study, Queensland University of Technology, 2023, accessed 10 July 2023, p 17,

Although there have been considerable recent reforms to better protect children from harm, Australian governments have not fully implemented the Royal Commission's recommendations. Child sexual abuse (and how society responds to occurrences of it) remains a widespread, ongoing problem.²³

Barriers for victims and survivors seeking safety, justice and redress

Survivors of child sexual abuse often experience breaches of their human rights, extending well beyond the immediate impacts of the abuse, into and across the survivor's adult life. In addition to the impacts noted on page 7 above, many survivors face significant barriers in seeking safety, justice and redress.

For example, criminal legal processes for child sex offences often fail to adequately recognise that a fair trial includes fairness to survivors and the broader community.²⁴ There is presently no victims' rights charter at the federal level, and state and territory victims' rights charters do not adequately protect the rights of victims and survivors in Australia.

Similarly, redress, compensation and support processes often fail to adequately recognise both the impacts of child sexual abuse on survivors and survivors' human rights, including the right to accessible and effective remedies for human rights violations.²⁵ For example, there are several major reports highlighting problems with the National Redress Scheme for survivors of institutional child sexual abuse.²⁶ knowmore has also made detailed submissions about the ways in which the National Redress Scheme fails to deliver survivor-focused, trauma-informed and culturally safe redress to survivors.²⁷

www.acms.au/resources/the-prevalence-and-impact-of-child-maltreatment-in-australia-findings-from-the-australian-child-maltreatment-study-2023-brief-report/.

23 Australian Child Maltreatment Study, p 18.

24 See, for example, Royal Commission, *Criminal justice report: parts III–VI*, August 2017, p 521, www.childabuseroyalcommission.gov.au/sites/default/files/file-list/final_report_-_criminal_justice_report_-_parts_iii_to_vi.pdf.

25 United Nations Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, 26 May 2004, pp 6–8, tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F2001%2FRev.1%2FAdd.13&Lang=en. See also *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, 29 November 1985, www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse.

26 See, for example, Joint Select Committee on Implementation of the National Redress Scheme, *Second interim report of the Joint Select Committee on Implementation of the National Redress Scheme*, November 2021, www.aph.gov.au/Parliamentary_Business/Committees/Joint/Former_Committees/National_Redress_Scheme/NationalRedressScheme/Second_Interim_Report; R Kruk AO, *Final report: second year review of the National Redress Scheme*, 26 March 2021, www.nationalredress.gov.au/document/1386?gclid=EAlaIqobChMI6eL7uOTw_AIVQYfCCh3ziwGJEAAYASAAEgIMUPD_BwE&gclsrc=aw.ds.

27 See, for example, knowmore, *Submission to the Joint Standing Committee on Implementation of the National Redress Scheme*; knowmore, *Submission to the second anniversary review of the National Redress Scheme*, 30 September 2020, knowmore.org.au/wp-

Benefits of a Charter for children, victims and survivors

In knowmore's view, a Charter would offer significantly improved protection for the human rights of children, victims and survivors. This is demonstrated by experience internationally and within Australia at the state and territory level. For example, the Human Rights Law Centre provides an extensive database of cases where courts and tribunals have considered the human rights of children, often under charters and often with positive outcomes for the human rights of children.²⁸ These include cases from various countries, including the United Kingdom²⁹ and Canada.³⁰

As noted above on page 5, Victoria, Queensland and the Australian Capital Territory have all implemented charters at the state and territory level. While many aspects of these charters provide protection for the human rights of children, we particularly note that these charters all recognise a child's right to protection³¹ and children's rights in the criminal process.³² The position paper provides detailed case studies demonstrating the positive impacts of these charters for the human rights of children,³³ which we have extracted below. Significantly, these case studies relate to the treatment of children in the child protection system and in

[content/uploads/2020/11/submission-second-anniversary-review-of-the-national-redress-scheme-cth.pdf](https://www.hrlc.org.au/content/uploads/2020/11/submission-second-anniversary-review-of-the-national-redress-scheme-cth.pdf)>.

- 28 Human Rights Law Centre, *Human rights case summaries: child rights*, accessed 10 July 2023, <www.hrlc.org.au/human-rights-case-summaries/tag/Child+Rights>.
- 29 See, for example, Human Rights Law Centre, *UK High Court of Justice holds 17 year olds should be treated as children in the criminal justice system*, accessed 10 July 2023, <www.hrlc.org.au/human-rights-case-summaries/uk-high-court-of-justice-holds-17-year-olds-should-be-treated-as-children-in-the-criminal-justice-system>.
- 30 See, for example, Human Rights Law Centre, *Children's right to the presumption of innocence and to be tried as minors*, accessed 10 July 2023, <www.hrlc.org.au/human-rights-case-summaries/r-v-db-2008-scc-25-16-may-2008>.
- 31 *Human Rights Act 2004* (ACT), section 11(2); *Charter of Human Rights and Responsibilities Act 2006* (Vic), section 17(2); *Human Rights Act 2019* (Qld), section 26(2).
- 32 *Human Rights Act 2004* (ACT), section 20; *Charter of Human Rights and Responsibilities Act 2006* (Vic), section 23; *Human Rights Act 2019* (Qld), section 33(2).
- 33 Australian Human Rights Commission, pp 82 and 90.

detention environments — areas of persistent concern for knowmore given the heightened risks of child sexual abuse.³⁴

Case study from the position paper: systemic changes to protect young people in the ACT

The ACT Human Rights Act influenced the legislative process in the development of the *Children and Young People Act 2008* (ACT). This was a comprehensive updating and codifying statute that is the primary law in the ACT providing for the protection, care and wellbeing of children and young people.

The government released an exposure draft of the legislation and the Human Rights Commissioner and the Children and Young People's Commissioner made submissions. Human rights issues were raised by practices such as therapeutic protection orders, prenatal reporting of children at risk, strip-searching of detained children, and behaviour management schemes proposed for a youth detention centre. These human rights issues were considered extensively by policy officers involved in the preparation of the legislation, with assistance from the Human Rights Unit. This is reflected in the lengthy Explanatory Statement presented with the Bill, which refers not only to provisions of the ACT Human Rights Act, but also to an array of relevant international standards, including the Convention on the Rights of the Child and United Nations principles relating to juvenile justice. It also draws on the audit reports of the ACT Human Rights Commissioner.

Extracted from the ANU five year review of the ACT Human Rights Act.

Case study from the position paper: children in juvenile detention

After riot damage to a youth justice centre, the Victorian Government set up a new youth justice centre in a unit in the maximum security adult Barwon Prison and started transferring children as young as 15 there. The conditions in the unit were extremely harsh and children were subject to extended solitary confinement, regular handcuffing and denied proper education.

A number of First Nations children took legal action using the [Victorian] Charter and other laws to challenge their transfer to the prison. In response, the Victorian Government agreed to remove all First Nations children from the adult prison. A number of non-Indigenous children then brought a similar legal action challenging the decision to set up the unit in the adult prison and transfer children there. Both the Supreme Court, and the Court of Appeal, ruled that the decision was unlawful because

continued on next page >

34 Royal Commission, *Final report: volume 12, contemporary out-of-home care*, December 2017, p 12, <www.childabuseroyalcommission.gov.au/contemporary-out-home-care>; Royal Commission, *Final report: volume 15, contemporary detention environments*, December 2017, pp 20–21, <www.childabuseroyalcommission.gov.au/contemporary-detention-environments>.

the Minister failed to properly consider the children's human rights under the Charter, including the right to humane treatment and the right to protection of children as is in their best interests.

When the Minister then made a fresh decision that kept the children in the adult prison, certain children brought a final challenge using the Charter and other laws. The Supreme Court again ruled that the government's actions breached the children's rights to humane treatment in detention and protection as is in their best interests. The Court ordered that the Minister stop detaining the children at the prison and all children were transferred back into existing youth justice centres. The Court also ruled that a decision approving the use of capsicum spray in the unit in the adult prison was unlawful.

Extracted from Human Rights Law Centre, 101 Charter Cases, 2022.

The Human Rights Law Centre also provides case studies, from overseas and within Australia, of charters contributing to the protection of human rights for victims and survivors of crime.³⁵ For example, one case study shows the Victorian charter being taken into account in the Court agreeing to an extension of time to allow a child victim/survivor of sexual abuse to give evidence via audio-visual recording.³⁶ This illustrates how a Charter can focus attention on the human rights of victims and survivors in decision-making, contributing to the improved protection of those rights.

Need for specific protection for victims' and survivors' rights

While many elements of the position paper's model will benefit victims and survivors of crime, the position paper does not include specific protection for victims' and survivors' rights.³⁷ These rights are established in international law — for example, as noted on page 8 above, there is a right to accessible and effective remedies for human rights violations, arising from article 2 of the *International Covenant on Civil and Political Rights*.³⁸ The United Nations General Assembly has also adopted the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, which states the following key principle:

35 Human Rights Law Centre, *Advancing the rights of victim/survivors of crime using Victoria's Human Rights Charter: your advocacy guide*, accessed 11 July 2023, <www.hrlc.org.au/s/Your-advocacy-guide_Victims-and-survivors-of-crime.pdf>.

36 Human Rights Law Centre, *Advancing the rights of victim/survivors of crime using Victoria's Human Rights Charter*, p 4.

37 Australian Human Rights Commission, p 18.

38 United Nations Human Rights Committee, *General Comment No. 31: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, pp 6–8.

*Victims should be treated with compassion and respect for their dignity. They are entitled to access the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.*³⁹

Other international instruments also recognise rights for victims and survivors of crime.⁴⁰

As noted above (see page 8), there is presently no victims' rights charter at the federal level. Victims' rights charters at the state and territory level within Australia provide a strong starting point for considering the rights that could and should be protected.⁴¹ In knowmore's view, an Australian Human Rights Charter provides an opportunity to recognise and protect victims' and survivors' rights at the national level. We consider that a Charter should include specific protection for victims' and survivors' rights.

Recommendation 2

An Australian Human Rights Charter should include specific protection for the rights of victims and survivors of crime, taking state and territory victims' rights charters in Australia as a starting point.

Participation duty and equal access to justice duty

The position paper's model includes a participation duty and an equal access to justice duty.⁴² The participation duty would primarily 'require public authorities to ensure the participation of certain groups and individuals in relation to policies and decisions that directly or disproportionately affect their rights'.⁴³ This would apply to children as follows:

The participation duty in the Human Rights Act as applied to children would include two limbs: best interests of the child; and the right of the child to be heard. It would require that public authorities consider these principles when making decisions concerning children and their rights, and to enable

39 *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, 29 November 1985, article 4.

40 See, for example, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, 25 May 2000, article 8, <www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-sale-children-child>; *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, article 6, <www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>.

41 See, for example, *Victims Rights and Support Act 2013* (NSW), division 2; *Victims of Crime Assistance Act 2009* (Qld), chapter 2.

42 Australian Human Rights Commission, p 17.

43 Australian Human Rights Commission, p 21.

*participation by both an individual child subject to a decision, and groups of children where policy and laws are being made that affect their rights.*⁴⁴

The equal access to justice duty 'would mean that public authorities have a positive duty to realise access to justice principles – and would require active steps by public authorities to ensure the provision of key elements of a functioning justice system'.⁴⁵ As the position paper recognises:

*The equal access to justice principle will complement the children's participation duty by requiring the provision of specialist children's legal assistance, advocates and adjustments to court procedures to facilitate their participation in judicial proceedings.*⁴⁶

The position paper provides detailed arguments for these duties in chapter 7.

As noted on page 5 above, knowmore supports the inclusion of a participation duty and an equal access to justice duty in a Charter. For the participation duty, we note the Royal Commission's observation that 'where children do not feel listened to, they are less likely to report abuse'.⁴⁷ The participation duty would complement the Royal Commission's recommendation for institutions to implement the Child Safe Standards, which include that 'children participate in decisions affecting them and are taken seriously'.⁴⁸ The Child Safe Standards have been incorporated into the National Principles for Child Safe Organisations, which have been endorsed by the Australian Government and all state and territory governments.⁴⁹

Turning to the equal access to justice duty, the Royal Commission noted the significant barriers that survivors face in accessing the criminal legal system and the importance of supporting survivors to give their 'best evidence'.⁵⁰ The Royal Commission made 12 recommendations for this purpose, including:

- allowing for the prerecording of evidence in child sexual abuse prosecutions⁵¹

44 Australian Human Rights Commission, p 202.

45 Australian Human Rights Commission, p 22.

46 Australian Human Rights Commission, p 221.

47 Royal Commission, *Final report: volume 12*, p 182.

48 Royal Commission, *Final report: volume 6, making institutions child safe*, December 2017, pp 211–212, <www.childabuseroyalcommission.gov.au/making-institutions-child-safe>.

49 Council of Australian Governments, *National Principles for Child Safe Organisations*, accessed 11 July 2023, pp 6–7, <childsafef.humanrights.gov.au/sites/default/files/2019-02/National_Principles_for_Child_Safe_Organisations2019.pdf>.

50 Royal Commission, *Criminal justice report: parts VII–X and appendices*, August 2017, pp 6–8, <www.childabuseroyalcommission.gov.au/criminal-justice>.

51 Royal Commission, *Criminal justice report: parts VII–X and appendices*, Recommendation 52, p 92.

- establishing intermediary schemes for prosecution witnesses with communication difficulties in child sexual abuse prosecutions⁵²
- allowing children who are not competent to give sworn evidence to simply promise to tell the truth⁵³
- providing adequate interpreting services.⁵⁴

The equal access to justice duty would complement these recommendations.

52 Royal Commission, *Criminal justice report: parts VII–X and appendices*, Recommendation 59, p 101.

53 Royal Commission, *Criminal justice report: parts VII–X and appendices*, Recommendation 62, p 103.

54 Royal Commission, *Criminal justice report: parts VII–X and appendices*, Recommendation 63, p 108.

Conclusion

There is presently inadequate protection for the human rights of people in Australia, including children and victims and survivors of child sexual abuse. In our view, a Charter is an important measure for improving human rights protection. The Australian Human Rights Commission's position paper provides a strong starting point for considering what elements a Charter should include. The position paper's model provides reasonable protections for children's rights, and many elements of this model will benefit victims and survivors. We consider that the model would be improved by including specific protection for victims' and survivors' rights, taking the content of state and territory victims' rights charters as a starting point.

We would welcome the opportunity in due course to provide feedback on draft legislation for a Charter.

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Image inspired by original artwork by Ngunawal man Dean Bell, depicting knowmore's connection to the towns, cities, missions and settlements within Australia.

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