

TIME FOR A **HUMAN RIGHTS FRAMEWORK** **FOR SOUTH AUSTRALIA?**

Yes



**Report following the inaugural
Rights Resource Network SA
International Human Rights Day Event
10 December 2020**

Rights Resource Network SA

connecting change creators + law makers

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Executive Summary

Time for a Human Rights Framework for South Australia?

On International Human Rights Day, **Thursday 10 December 2020**, members of the Rights Resource Network SA gathered to discuss whether South Australia – a jurisdiction with a proud tradition of leadership in the area of social justice and equality – should establish a human rights framework to guide the process of policy-making and lawmaking.

Starting with the big picture, the Network heard from a panel of experts on what a South Australian human rights framework could look like, and what legal, structural, and policy-related changes that would demand or could create. Participants were invited to reflect on these themes in a practical way through thematic workshops on key rights issues facing South Australia. Workshop topics included: *poverty and access to social security; age of criminality and Aboriginal incarceration; housing and homelessness; family violence and family safety; right to protest and environmental protection; and citizens' engagement with parliament and policy*. These workshops were led by academic researchers and local community organisations, and supported by student volunteers.

Each workshop developed a series of actions for the Network to consider taking forward – either by joining together to form new alliances and collectives, or through supporting the continued leadership of existing organisations. This report contains a summary of these actions, as well as range of reports of the key themes and issues discussed at the Workshop. It is designed to help guide the Network's future research priorities, and to be used as a resource for those contemplating rights-related reforms in South Australia.

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The [Rights Resource Network SA](https://rightsnetworksa.com) is a ground-breaking new initiative designed to connect students, researchers, lawyers and policy makers with community organisations and individuals with on-the-ground experience supporting and representing South Australians across a diverse range of sectors. The Rights Resource Network is a volunteer-run network that received funding from the Law Foundation of South Australia in 2020. The Network does not have a standalone policy agenda. It exists to share information and create opportunities for collaboration and joint advocacy among academics, community organisations and individuals who are committed to protecting the human rights of South Australians. The Network is governed by a volunteer [Advisory Group](#) with broad range of expertise and experiences. The (Volunteer) Director of the Network is Dr Sarah Moulds, Senior Lecturer in Law, UniSA.

Acknowledgements

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Many people helped to make this event and report possible. Leading the charge was Elizabeth Guthrie, marketing and events manager. Thank you Elizabeth! The following talented people presented or led workshops on 10 December 2021, or provided volunteer assistance in the preparation of this report:

Ross Womersley SACOSS

Cheryl Axelby, ALRM

Laura Grenfell, Uni
Adelaide

Matt Ryan, GovLab

Amy Cleland, UniSA

Michelle Hopkins, Uni
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Chris Charles, Law Society
Human Rights Committee

Janette Milera, SOS Blak
Australia

Sophie Trevitt, Raise the
Age

Geoff Harris, Mental
Health Coalition SA

Ellie Hodges, LELAN

Natalie Wade, Equality
Lawyers

Caroline Ellison, UniSA

Skye Kakoshke Moore,
Purple Orange

Carol Hanniford, South
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Advocacy Alliance

Matthew Morris, South
Australian Rainbow
Advocacy Alliance

Peter McDonald, Uniting
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Daniel Miller, UniSA

Jennifer Jones, UniSA

Lin Wang, UniSA

Manuel Retsas-Castillo,
UniSA

Claire De Palma, UniSA

Loki Cassandra Maelorin

Leigh Garrett, Community
Transitions

**Thank you for
everything you do.**

Background

South Australians are generally a lucky bunch, living in the world's most liveable city, enjoying high-quality public services, and participating in the process of democratic government. For most of us, most of the time, our rights are respected and protected. But every now and then, and a lot more often since the COVID-19 pandemic, we see something and experience something that has a big impact on our freedom, our wellbeing, and our rights. We can't leave our home, we can't open our business, we can't go to work, or we can't walk our dog, we are excluded from being part of a group. Our rights are restricted, and even if we vigorously agree with the need for the restrictions, we feel it strongly. For some South Australians, this feeling of restriction and exclusion occurs regularly, and the standard of living that others take for granted is routinely denied them. Some South Australians don't have a safe place to come home too, can't get the health care they need and don't get the chance to be involved in decisions that affect them. Laws are enacted, policies implemented, and decisions made that effect our lives but that don't require consideration of our rights. These gaps in human rights protection impact on all of us, influencing the way we see ourselves and the way we plan for the future.

Unlike many other states and territories in Australia, South Australia does not have a Human Rights Act or a Charter of Rights. It has laws with specific protections for specific things, such as the Equal Opportunity Act 1984 (SA), but there is no requirement for the parliament or the government to consider the full range of our human rights when making laws and policies, and very limited pathways for us to take action in court if our human rights are breached. The Rights Resource Network SA thinks it is time that we talked about this gap in human rights protection in our state, and we want you to be part of this discussion. The Rights Resource Network SA brings together those working on the ground to support South Australians to access their rights, with those researching on ways to improve lawmaking and policy design in this State.

We hosted a digital conference on International Human Rights Day, Thursday 10 December 2020, to talk about whether it is Time For A Human Rights Framework For South Australia?

The event was free and open to the public. Participants registered to select their workshops, and receive details for accessing the zoom sessions.

The Event opened with a panel discussion on what a South Australian human rights framework could look like, and what legal, structural and policy related changes a framework would demand or could create. Keynote speakers include Ross Womersley from the South Australian Council of Social Service, Cheryl Axelby, CEO of Aboriginal

Legal Rights Movement, and human rights law expert Associate Professor Laura Grenfell.

Participants were then invited to join a wide range of thematic workshops to reflect on key rights issues facing South Australia in a practical way. The workshops addressed: poverty and access to social security; age of criminality and Aboriginal incarceration; housing and homelessness; family violence and family safety; right to protest and environmental protection, and citizens' engagement with parliament and policy. Each workshop was led by academic researchers and local community organisations, with the support of student volunteers.

To register for future events please visit the *Rights Resource Network SA* website: <<https://www.rightsnetworksa.com/upcoming-events>>

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How it all worked

Objectives	<p>The thematic workshops were designed to advance the following objectives:</p> <ul style="list-style-type: none"> • provide a safe space for researchers, community organisations and members of the public to connect around a rights related theme and share perspectives, resources, and advocacy strategies. • showcase the value of the Rights Resource Network SA and the potential for future collaboration around key rights issues. • develop three key 'actions' to contribute to the Event's final Action Plan.
Structure	<p>The workshops ran for 1 hour and 15 minutes online via Zoom. They were recorded. A student volunteer took notes during each workshop to encourage discussion and to contribute to this Report. Workshop Leaders were encouraged to bring their unique experiences and skills to their workshop collaboration.</p>
Outputs - Action Plans	<p>Each Workshop was invited to identify three 'actions' to share with the broader group at the end of the Event.</p> <p>These actions could be specific (<i>eg support a specific legal or policy reform</i>) or general (<i>eg raise awareness of the rights issue among different community groups or with key decision makers</i>) or focused on future Network action (<i>eg hosting a supplementary Workshop or public forum or submission writing event</i>).</p> <p>Consensus was not necessary, encouraging diverse perspectives on each theme from participants. Actions could be separated into different sectors (<i>eg community organisations could agree to share past submissions or researchers could agree to collate and share academic research</i>) or reflect a diversity of views (<i>eg report on the pros and cons of a particular reform</i>).</p> <p>These action plans have been collated to inform future Network activities.</p>
Workshop Leaders	<p>Experts from the community were invited to facilitate discussion on a relevant topic, drawing on their expertise and experience. They also promoted the event through their personal and professional networks to encourage broad and diverse representation; and encouraged to make new connections and to share back to their communities.</p>
What support the Network provided	<p>The Network organized and ran the Event, assisted Workshop Leaders in developing their workshops, and provided student volunteers to take notes and report on the outcomes of each workshop.</p> <p>The Network promotes participating organisations and relevant research through the Network's website; including a Profile blog post, or links to key advocacy outputs, research, or campaigns.</p>

Part 1: Time for a Human Rights Framework for South Australia?

OUTCOME: Broad support for advancing a human rights framework for South Australia, including a legislative framework for rights protection that would:

- incorporate human rights principles into policy design and development;
- emphasise the dignity and participation of all members of the South Australian community in the design and development of policies and laws that impact their lives;
- include mechanisms within the parliamentary process for rights considerations to be more prominent.

ACTION: The Rights Resource Network to continue to play a role in:

- raising awareness about rights issues and the need for a human rights framework for South Australia;
- sharing information on rights issues in South Australia;
- developing materials with a focus on the legal or legislative components of rights issues in South Australia; and
- providing opportunities for collaboration across members of the network on particular rights issues, having regard to the important leadership role already undertaken by peak bodies including South Australian Council of Social Services (SACOSS) Aboriginal Legal Rights Movement (ALRM), Civil Liberties Australia (CLA), Mental Health Coalition SA (MHCSA) and South Australian Rainbow Advocacy Alliance (SARAA).

Part 2: Workshops

SESSION 1: Specific Rights Issues Confronting South Australia 11.30am-12:45pm

TOPIC	ACTIONS
Age of Criminality and Aboriginal Incarceration	<p>Continue with internal advocacy within government and organisations to promote recruitment and retention of young Aboriginal South Australians in sustainable employment opportunities</p> <p>Collaborate to provide written submissions to the South Australian Attorney-General- utilising existing materials prepared by ALRM, SAACCON, OGCYP and Raise the Age</p> <p>Continue to research within this area, including focus on South Australian approach to <i>doli incompax</i> and developing evidence base for alternatives to criminal prosecution</p>
Mental health and Human Rights	<p>Ensure human rights framework supports a better balance of medical and social models in mental health including:</p> <ul style="list-style-type: none"> • Context that better balances ‘patient’ human right to be supported to decide whether to agree or refuse treatment, including with regard to whether the proposed treatment has a strong evidence base • eliminate or reduce negative impacts on human rights such as poor or restrictive practise and involuntary treatment, including regard to whether the practise/treatment has a strong evidence base • focus on delivering ‘positive’ outcomes as a human right envisioned by the UNCRPD for example through evidence based service types such as psychosocial support. • KPIs for mental health related to ‘positive’ human rights outcomes including housing, education, employment, relationships, meaningful activity etc <p>Analyse MH Act and propose areas for human rights improvement based on evidence. Ensure focus on ‘positive’ human rights outcomes not just reducing negative impacts. Ensure positive human rights outcomes are practical not just aspirational.</p> <p>Develop governance and accountability mechanisms including KPIs that places more priority on human rights evidence / outcomes to balance the current medical / system performance emphasis.</p> <p>Promote with key government/ departmental officials</p> <p>Overriding goal of our mental health system - Recovery vs Citizenship</p> <p>Promote the concept of citizenship</p>

	Trial and evaluate citizenship approach in psychosocial supports in South Australia.
Disability Rights	<p>The implementation of a Human Rights Act to promote and protect the rights of people with disabilities;</p> <p>Immediate consideration and reform to existing legislation regulating disability rights in order to identify gaps and areas for improvement;</p> <p>A beacon for inclusion of the voice of people living with disability whereby researchers are able to engage in codesign to benefit from the disability community.</p>
LGBTIQA+ rights and legislative priorities	<p>Protect children born with intersex variations from unnecessary medical interventions until they are able to provide informed consent, in accordance with the Darlington Statement</p> <p>Ensure that transgender and gender diverse people have access to equitable and affordable healthcare, including transgender and gender diverse children.</p> <p>Strengthen State and Federal anti-discrimination legislation to ensure that LGBTIQA+ people are protected from discrimination in the workplace, schools, and when accessing health or community services.</p>
Family violence, family safety and AVOs	<p>Collaborate to advocate to reform AVO procedures to improve accessibility and effectiveness for victims</p> <p>Advocate for improvements in support and education to the community members to reduce the overall incidence of family violence, particularly in minority communities.</p> <p>Prioritise academic research with respect to social and emotional drivers of abuse need to be further researched. Domestic violence impose long term significant impact on the victim, it casts a long shadow including mental health, and negatively influence work capacity of the victims, particularly women.</p>
Modern Slavery in SA	<p>Enhance existing efforts re public information and awareness raising of the issue of modern slavery in SA</p> <p>Support public to use consumer powers and support businesses following ethical practises;</p> <p>Support businesses who have identified areas of mistreatment of people. However, there needs to be the ability to ensure they are accountable to then follow through with necessary changes, within a specified timeframe, informing on how the issues are being resolved;</p> <p>Consider strategies to provide support services for businesses to ratify the problems, victim involvement, working with suppliers rather than cutting them out;</p> <p>Prioritising research that adopts a holistic approach in order to understand the 'why' and look at the position of victim and offender.</p>

WORKSHOP REPORTS

The following workshop reports were prepared by Student Volunteers with the assistance of Workshop Leaders. They are not designed to be a comprehensive account of the discussions, but rather a ‘snap shot’ of the key issues and themes. Each workshop report has a slightly different style reflecting the diversity of our speakers, participants and volunteers. The Rights Resource Network welcomes any feedback, comments or corrections with respect to these Reports, which will help inform our priorities for 2021-2022. The Network extends its heartfelt gratitude to all contributions, some of whom are identified by name in these reports, and many others who helped shape the themes and key points set out below.

Community Engagement

Matt Ryan from *The GovLab, New York University* presented information and ideas situated within the context on COVID-19. GovLab is an action research centre which aims to improve people’s lives by changing the way we govern. This includes strengthening the ability of institutions not limited to governments.

The COVID-19 pandemic

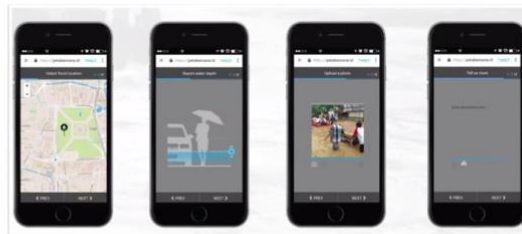
The pandemic is a tale of two stories. It was noted that Australia has been very fortunate in comparison to the widespread cases in many other countries. Australia can be compared to the US, which is still spiralling upwards in counts of positive cases and deaths. The pandemic takes a look at the rights of many, pushing legislation through in desperate times. The other story shows that the pandemic has an incredible cost which is borne by the vulnerable. In this perspective, the rights of the few are neglected. However, there are many cases from other countries of how to use community engagement to support both objectives of protecting the overall population, while attending to the rights of the vulnerable during crises.

Building a Better Picture of the Problem: Smartphones

In this example, a bot on twitter responds to the #banjir (“flood”) hashtag. This is an automated response process. The bot asks the question if they are in a flood scenario. If so, information collected via the phone’s locations services and input from the user about floodwater height and/or photo, and is shared with emergency services resulting in their better understanding in real time of the events which are unfolding and, how to deal with it.

BUILDING A BETTER PICTURE OF THE PROBLEM PETA BENCANA, INDONESIA

PROBLEM: rapidly rising floodwater
WHO PARTICIPATES: Self-selected members of the public
NO. OF PARTICIPANTS: 761,746 unique users (since 2015)
PUBLIC TASK: Data collection
USER / BENEFIT: Emergency services who get more granular understanding in real time



Identifying Solutions: Citizen’s Jury

Using randomly selected persons to get a reasonable common ground in a difficult subject matter to achieve solutions that work.

IDENTIFYING SOLUTIONS SHARING THE ROADS SAFELY (CYCLING CITIZENS JURY), SOUTH AUSTRALIA

PROBLEM: Cycling casualties
WHO PARTICIPATES: Random selection matched to population profile
NO. OF PARTICIPANTS: usually 30-40; some processes 100-150
PUBLIC TASK: Deliberation and recommendation
USER / BENEFIT: SA Government; finding common ground in a polarised debate



Alerting Volunteer Responders to Nearby Incident: Smartphone

This voluntary app operates to alert bystanders (such as off duty nurses, police/fire officers in an area where there is an emergency nearby (e.g. a person experiencing a heart attack). Alerting volunteer responders can also be particularly effective in scenarios such as COVID-19 where people who were self-isolating may be more vulnerable and those nearby can volunteer to assist with tasks such as collecting shopping or transporting to essential medical appointments. The implementation had a tremendous number of participants very early.

IMPLEMENTING AT SPEED AND SCALE
 GOODSAM & NHS, UNITED KINGDOM


PROBLEM: Shortage of helpers for the vulnerable COVID-19 affected

WHO PARTICIPATES: Self-selected members of the public (then screened etc)

NO. OF PARTICIPANTS: 750,000 within a week of launch

PUBLIC TASK: Volunteering

USER / BENEFIT: UK Government & local authorities rapidly improve response capacity



Evaluating the Basis for Policy and Law

This process seeks to bolster research capacity of under-resourced committees and improve weak, dated or contested evidence which shapes policy and eventually law. This is important as a better set of evidence which is relevant, fresh and can focus committee's limited capacities on contested evidence, can lead to better policy and better law which reflects the true facts and needs and makes efficient use of MPs and parliamentary officers time

EVALUATING THE BASIS FOR POLICY AND LAW
 EVIDENCE CHECKS, UNITED KINGDOM

PROBLEM: Dated, weak or contested evidence that shapes policy

WHO PARTICIPATES: Selected stakeholder organisations, selected and self-selected members of the public

NO. OF PARTICIPANTS: up to 500

PUBLIC TASK: Scrutiny of evidence; provision of evidence

USER / BENEFIT: UK parliamentary committees; bolster research capacity, more focused and time efficient committee processes



A Checklist for Collective Intelligence Initiatives



Links to materials

<https://thegovlab.org/collective-intelligence.html>

<https://congress.crowd.law>

<https://covidcourse.thegovlab.org>

Acknowledgement

Material above is sourced from research undertaken by The GovLab and Nesta ([Using Collective Intelligence to Solve Public Problems](#)) and is freely available for re-use consistent with its [CC BY SA](#) licence.

How can we support these community organisations in order to contribute and help Parliament, as well as doing what they need to do?

Human Rights - Chris Stamford

The topic of human rights is often the topic of tomorrow for most political debates. There may well be a perception that there is not a fundamental need for a human rights act as it is not required to solve issues at present. Consequently, in order for the human rights act to come to some sort of fruition, it may be up to the States to show the way. This has already been accomplished in NSW but other States need to follow suit. Could SA possibly be next? We know the benefits and ideas behind the human rights act already,

so that is not the issue why the human rights act failing in present circumstances. Sometimes, parties and political forces need to be led by the people. Engagement with people is essential. Parliamentary fear of the human rights act not going anywhere is because of the falling into processes of improper use. In order to elevate this, the human rights act in its context needs to be shifted and plugged into a broader structure around ethical build up. If the perspective is changed around why we need it, it may have more traction.

The Human Rights Law Centre has put up a guide towards human rights implementation. Human rights are often difficult to understand for non-lawyers. On its face, it is easy to understand. We have a preconceived notion of what human rights are. However, to better illustrate human rights and the benefits of an act, targeting other professions in helping them understand and implement human rights in areas such as business, psychology and social workers may be useful.

Contract Tracing – Nadia Corsini

Contact tracing involves preparation for providing information. An important question is ‘what do people understand about how that information will be used?’. A multi-method approach to explore the issue was used which involved the engagement of different sectors to give people an opportunity, who otherwise would not have had their voiced heard. For example, some approaches used were one-on-one interviews, a survey which was launched, and consultation processes to inform. Sarah Moulds looked more deeply into the legal and regulatory framework. There are issues and changing dialogue about trust and how information is used.

Additional Points on Community Engagement

It can often be difficult to engage all of a community because there are so many communities! We have the community of Australia yes, but that can be broken down further and further into sub communities. Furthermore, once engagement in a community has commenced, it is vital to keep engagement occurring, or to ‘keep fuelling the fire’ in other words. It has been noted also that there are not enough internal reviews to learn and adapt and change for the better. More learning could happen if there was more discipline which would result in foresight for how to improve for next time and the next issue. It is also difficult expressing how to make it personal to people in order better help make them think about human rights. How do we change the minds of people who make decisions or influence that process? Often at times they may already understand human rights but may not change course.

Detention

Penny Wright, Guardian of Children and Young People,

Ms Wright provided an overview of some key aspects of her role and key themes emerging from the work of her office

- Particularly interested in indigenous rights in detention
 - Independent position created by *Youth Justice Administration Act*
 - Reports to SA Parliament and through that, the community
 - Covers all children whilst they are detained in training centres in SA (only 1 currently - in Cavan Youth Justice Centre)
 - Works to promote the rights of treatment, care, and control of young persons while they are detained, also has influence upon the management of the centre.
 - Provides advice to the Minister
 - 'Inspection' function of current training centres
- Children can be convicted of a crime and detained from the ages of 10 and up
 - National push to have age of criminal responsibility from 10 to 14
 - Population decrease to about 20-30 since 2017, where it sat around 50-60
 - Most persons detained in the centre are on remand, they have not yet been convicted, but are still treated as though they have been convicted.
 - Period of detention may range from days to years.

General Discussion of Concerns and Issues

- Consideration of the findings from the OGCYP's [Great Responsibility](#) Report
- Access to education and training for children and young people in detention
- Recognition of cultures.
- Privacy issues, and the use of body-cameras
- Personal searches and privacy.

Other priority areas for research and advocacy:

1. Advance implementation of Optional Protocol to the Convention Against Torture (OPCAT) after ratification in 2017
2. Explore the reasons for a decrease of training (detention) centre population since 2017.
3. Follow up on Government's action to agreement of 10 recommendations from [Great Responsibility](#) Report
4. Focus on housing: Over 100 people in adult correction could be bailed or paroled if they had somewhere to live – consideration of role of community advocacy and raising profile of this issue with Minister for Human Services
5. Continuing to advocate for raising minimum age of criminal responsibility from 10 to 14

Disability

Key Discussion Points

A Human Rights Act to promote and protect the human rights of individuals living with disabilities.

Once the panellists were introduced, Natalie Wade began the workshop by giving the participants a public policy and legal perspective to lay the foundations for the discussion surrounding disability rights. The first point Natalie touched on was the absolute necessity of a South Australian Human Rights Act and surrounding framework, in a disability context that means the protection and promotion of rights, which would positively impact most minority groups dealing with discrimination on the basis of race, gender, age and religion in addition to disability. A human rights act to protect peoples with disabilities rights and their families in addition to promoting their rights through policy and legislation is imperative to ensure safeguarding against discrimination and rights violations that disproportionately affect the disabled community. A prominent example of this is the recent atrocities experienced by Anne-Marie Smith which highlighted the very real consequences that can occur when the law and public policy fails people with disabilities. From that event, there have been some important recommendations made by the Safeguarding Taskforce created by the current Government. Furthermore, the Disability Royal Commission delivered an interim report, in addition to a specific report relating to the experience of people with disabilities through COVID-19 . Both of these important reports highlighted to the wider Australian and international community, the current position of disability rights and the failings of current State, Territory and Commonwealth Governments to respond appropriately and adequately to a varied range of issues surrounding the disabled community.

Natalie briefly discussed the number of concerns that are currently being raised about the performance of the NDIS Agency and its ability to create meaningful lives for people living with disabilities. The concerns surround the attempted interruption of independent assessments to disrupt the way people with disabilities access the NDIS, Natalie observed that this will contest the efficacy and efficiency of the scheme.

When considering the pivotal question posed by the event “is it time for a Human Rights Act in SA?”, Natalie commented on the two very important elements such an act would bring in a legal and public policy space in the disability context. Firstly, it provides an avenue for people with disabilities and their support systems to protect their human rights, giving the example seen in the ACT where a declaration made by the Supreme

Court can require a public authority to make a decision in accordance with a human rights act which also provides a useful tool for lawyers and the affected individuals themselves to advocate for their rights. The second element surrounds promotion and public awareness of human rights in a disability context. When a human rights act is available in a jurisdiction, lawyers and advocacy bodies are able to point to a legislative instrument and direct a court or public authority to consider a clear and concise document that outlines the rights that are afforded to the client or individuals affected.

The panellist opened the discussion to the workshop participants, who wanted to consider the mechanism for statutory interpretation of a human rights act rather than for pure evidentiary use. Natalie then answered that she wouldn't necessarily view it as a means for evidentiary use, but rather as a mechanism for statutory interpretation. The group then decided that it would largely come down to how the framework or legislation was drafted and concluded that it would be poignant for any human rights legislation to include an interpretive clause. Additionally, the group also reflected that the incorporation of an independent rite of action should also be included in order to allow lawyers and advocates to utilise the framework at a court level. It was observed by one of the participants that this element is missing in the current Victorian human rights charter, which has made it incredibly challenging to argue in the courts as there is not an independent rite of action.

Skye reiterated Natalie's earlier discussion points of the necessity to protect and promote the rights of people living with disabilities. She then posed some questions for the group to consider, regarding what we would want a human rights act to achieve in SA and to consider what our current system is missing, what is a realistic timeframe for such a framework to be created and implemented, who it should cover and jurisdiction, what should the complaint mechanisms look like, and who should be responsible for enforcing it. The group discussed some of these questions and agreed that the central goal of such a framework in the context of disability is to achieve a protection and promotion of rights approach. Furthermore, the group also decided that when discussing a realistic timeframe for the creation of such a framework that it is incredibly important, we utilise the momentum we have now, especially from recently Human Rights Bill introduced into South Australian Parliament by the Hon Mark Parnell MLC, in addition to the experiences gained throughout 2020, and that there is definitely a sense of urgency surrounding the necessity of a human rights framework for our State.

Cate Mussared, a workshop participant and Chief of Staff to the Hon Mark Parnell MLC, touched on some of the questions posed by Skye regarding the current Bill that was recently introduced into Parliament. She utilised her insight from the proposed Bill and

firstly spoke to the issue of scrutiny of new legislation, that is to be considered by the Legislative Review Committee, which raises a potential problem of gaining an unbiased view of the legislation, due to it being a standing committee of parliament and thus is largely government dominated. She reiterated that this Bill is very much a tool in beginning the conversation around implementing a human rights framework into South Australia. Regarding the issue of reviewing existing legislation, a different model has been strongly suggested to ensure an unbiased and impartial review. Finally, when discussing a practical timeframe, she agreed that this is an urgent matter, but must be considered very carefully at the same time, and that it should not be brought to a Parliamentary vote unless there is real possibility of success.

Immediate consideration and reformation to existing legislation regulating disability rights

Natalie began the discussion surrounding the current legislative framework governing people with disabilities, namely the *Guardianship and Administration Act 1993* (SA) ("*Guardianship Act*"). This act disproportionately removes the right of people with disabilities to make their own decisions as adults, its application largely affects people with mental incapacity which is mostly inclusive of individuals with intellectual disabilities. This law currently operates in an unequivocally draconian manner that infringes on the rights of people with disabilities in South Australia. In this context, if a human rights act were available to lawyers to refer to when making submissions, it would force the courts, tribunals and other statutory bodies to uphold and promote disabled people's human rights by considering existing legislation in accordance with the human rights act.

As said above, it would be essential for any human rights framework in South Australia to include an interpretive clause in order to promote and protect the rights of the disability community, especially when tribunals or other bodies are interpreting existing legislation that are in dire need of reform, such as the *Guardianship Act*, thereby allowing any legislation to be interpreted in light of the human rights framework as far as possible.

The workshop participants then discussed the *Guardianship Act* in further detail, focusing largely on section 32 that governs *special powers*, and observed that it is exceptionally problematic as it disproportionately removes the right of decision making from people with disabilities. It was then posed to Natalie whether she believed that while waiting for a human rights framework, this act in particular and others like it should be reformed. Currently, the scheme being utilised allows for substituted decision making rather than supported decision making, which at an international level is incongruous with the international human rights framework and in particular, the Convention on the Rights of

Persons with Disabilities 2008, to which Australia is a party to. Natalie observed that section 32 has become increasingly problematic especially after the Supreme Court chose to view the section in a broad manner. This broad scope has resulted in the requirement of a SACAT section 32 order which allows for directing a person to reside in a particular place, to be detained in a particular place, and to be subject to reasonable force as is necessary for their care and protection.

Natalie echoed the absolute necessity for immediate reformation for the *Guardianship Act* and stated that this use of substituted decision making imposed on individuals with disabilities by the *Guardianship Act* and similar legislation perpetuates a complete draconian imposition of their human rights. Natalie observed that the best-case scenario would be to reform this legislation, particularly section 32, in addition to a human rights framework to assist with interpretation. A member of the workshop then made a suggestion that in conjunction to a human rights framework, immediate reviews to existing laws should be undertaken, in particular, key laws that affect peoples with disabilities in addition to key areas that affect public life. Skye then gave her view on who would be best to review such legislation, utilising her personal experience as a senator for South Australian in Parliament, advised that using a Senate Committee would perhaps not be useful as the current proposal is largely focused on South Australia alone, but suggested that potentially a joint project between government and civil society in undertaking this review could be appropriate.

A beacon for inclusion of the voices of people living with disability whereby researchers are able to engage in codesign to benefit from the disability community

Skye gave her perspective on how a human rights act could aid in the systemic advocacy space which she works in with Purple Orange. Skye acknowledged that Professor Caroline Ellison was unable to attend the workshop, who is the 'Crossing the Horizon' Professor of Aging and Disability at UniSA, but that as they engaged in a conversation prior to the event, she was able to highlight some important points Caroline wanted to bring to the workshop from a research perspective, which will be considered later in this report. Purple Orange run projects on behalf of Governments and private organisations and host a number of programs including 'Our Voice South Australia' which is a self-advocacy group lead by people living with intellectual disabilities. Our Voice recently prepared a 'needs analysis' which is now being shared with an array of government departments, recommending areas they feel need more support and where possible improvements could be made to ensure individuals living with intellectual disabilities are able to maintain and optimise their quality of life. Additionally, this program also

assists to advise members of their human rights, and how to advocate for them, themselves, and reach out for help when needed.

Another organisation Purple Orange host is the Enabled Youth Disability Network Eden, which is a peer network organisation comprised of young people living with disabilities. They run peer network meetings, workshops and capacity building activities for young people. In addition to those groups and organisations, Purple Orange also do a lot of policy related work and are currently involved in providing feedback for several state government departments and local councils disability and inclusion plans. They also promote the importance of codesign which means including people living with disability to share their perspectives in the conversation when creating policies or laws governing that subject matter at the beginning and ensuring their involvement throughout the entire process, including implementation, monitoring and review. State government departments are now beginning to implement codesign when drafting new policies, practices or new public works.

Skye then considered the conversation from a research perspective and what academia could be doing to better protect and promote people living with disability, based on the discussion points Caroline Ellison for UniSA provided in an earlier meeting. In this prior meeting, Caroline utilised the phrase ‘nothing about us without us’, which encompassed her core message to the workshop. She wanted to highlight the absolute necessity and value of having the voices of peoples with disability in research and public policy development and presented two central questions to the group: how can academia ensure they utilise codesign and include people with disabilities in their research projects without it being an afterthought, and how to acknowledge and honour the time, experience, skills and knowledge individuals living with disability bring to the table. Additionally, Caroline wanted to emphasise that tokenism in research space in a disability context must be eliminated at once, the idea of having someone with a disability involved to fill a quota or for show is simply not good enough and instead must be a considered and value driven decision from the beginning of any research project, law or policy.

A member of the workshop then gave their perspective and experiences as a researcher and reaffirmed the importance and absolute necessity of codesign in a research sphere. A concern was then raised on the issue that some researchers face especially in the ‘pre-funding’ stage of a project in obtaining and supporting codesign without financial support and resources. This then posed an interesting discussion from the group at large, who concluded that potentially a human rights framework or government department

could include some form of mechanism to support and provide funding to researches practice codesign in that first vital stage.

Conclusion

After a very engaged and thorough discussion surrounding the necessity for a human rights framework in South Australia in a disability context, the workshop concluded that the final three action items to pass along to the Rights Resource Network for their consideration and possible future implementation would be thus:

1. A Human Rights Act to promote and protect the rights of people with disabilities;
2. Immediate consideration and reformation to existing legislation regulating disability rights;
3. A beacon for inclusion of the voice of people living with disability whereby researchers are able to engage in codesign to benefit from the disability community.

Environmental Protest

Democracy means that the process of framing protesting rights is never finished and a changing society results in protesting events that sharpen our focus on issues that need to be addressed.

- Protesting takes different forms and continues to expand:
- Public Protest - demonstrations
- Lock on campaigns - Mining equipment etc.
- Technological Development that can create disruption - new online disruption options
- What gets the notice of parliament?
 - a) Numbers - petitions etc.
 - b) Stories - change the way a politician feels about an issue (heartstrings)

Australia did not sign on to the 2008 Aarhus convention and currently has a diverse states approach to protesting in general and very limited consensus across the country regarding environmental protection.

- In SA the government YourSay system exists but it not well publicised and is consequently underutilised.
- A definition of "in the public interest" needs to be found. Proportionality and reasonableness also needs to be considered and the relationship to human rights limitations in stopping legitimate protest.
- Decriminalisation of protesting offences also needs to be brought forward in SA.
- Summary Offences Act/Protective Security Act
- In SA legislation provides that some places can be cordoned off so that they are security controlled and become inaccessible to the general public (e.g. footpath on North Terrace in front of parliament house).

There is a lack of co-ordination of options to respond and engage in public response to issues. This is something we could work on collectively.

- Information is often inaccessible
- Individuals feel that even if they do respond their voices are not actually heard by decision makers.
- This leaves legal action which can be very expensive.
- Communities do not always understand how development policy comes about, nor do people know how to access or change policy.

Currently SA is working on a new planning and development code. 6 year consultation undertaken. It was supposed to be covered by an engagement charter. Melissa Ballantyne (EDO) suggests that none of the principles have been followed in this space.

- Consultation was deficient:
- EDO has been contacted by many who did not understand, or were not able to be involved in the consultation.
- Very long document (8,000 pages) - full of errors, hard to navigate.
- No information about current policy v proposed new policy
- No information about where the public could get more information
- Some elements of the code were missing and were only developed during the consultation process and not revealed until after consultation period was over.
- Protect our Heritage drew together a petition of more than 15,000 signatures has been collected in relation to the proposed changes to the planning act, which must now be considered by legislators. This resulted in an extension to the consultation period, but is probably not enough to make significant change to the Planning & Development Code.
- There has been a call to ban donations to committees on planning - no result as yet.

Wrap-up

- 1) Is it only a matter of time until those in power try to further limit public protest in order that it does NOT disrupt in the it has managed to do in recent years. If yes, what can we do about it?
- 2) Fiercely oppose attempts to limit protest at the legislative level (and by protest if necessary).
- 3) Public Permission and endorsement of work undertaken by protesters is essential.
- 4) Engagement with Police on this process of understanding and supporting protest is necessary.

Family Violence, Family Safety and Intervention Orders

Family violence has been a strong area of advocacy within our community, given its significant negative impact on individuals, community welfare, and public confidence. Our workshop raised four main concerns regarding this topic.

1. About Apprehended Violence Orders and Intervention Orders

South Australia has a range of legislative provisions designed to address domestic and family violence, including provisions that authorise the issue intervention orders against perpetrators of violence, and provisions that provide for confirming and enforcing these orders. However, the intervention order system is not fit for purpose in South Australia; it is not operating as it should to keep survivors safe, particularly women and children who were experiencing domestic violence and/or sexual abuse (Jennifer Kingwell from Embolden). Recent research statistics indicate that there has been an increase of violence during COVID-19 pandemic for the first time, and also experiencing an exacerbation of violence inflicted upon the victims, broadening the existing equity gaps.

The situation is particularly so for disadvantaged women, such as women on temporary visas, facing marginalisation, and with issues to support safety infrastructure (housing, financial security and child care access, and other fundamental human rights aspects of safety). This is a human right issue, not just a legal one. Awareness must be shared within the broader community, support services, legal enforcement and justice system that violence does not end when the victim walks out of the door; it is an ongoing, lifelong impact. The whole community needs to collectively understand the situation, and support the victims beyond the immediate crisis point.

The Workshop considered an example provided by Voices for Change, a lived experience organisation representing survivors of domestic and family violence. The example highlighted the complex, integrated and challenging aspects of the existing regime, and the many ways it can fail to meet the needs of survivors and their children.

2. Community support and education

Nada Ibrahim provided an insight into the value of community education as tool for addressing domestic and family violence. Nada explained that to effectively protect the domestic violence victims, and, perhaps most importantly, minimise the overall incidence of domestic violence from the outset, support and education to the community

members is the key. Our community needs to have a stronger empathy for and understanding of the experiences of survivors of family and domestic violence.

The survivor healing process also needs attention, requiring consideration of the best ways to deal with sensitive information, building up trust during the intervention process which sometimes might even take years, and financial security and child protection etc. Access to secure housing is vital for the ongoing recovery process for survivors and their children, in addition to specialist services to assist in addressing ongoing trauma.

3. Woman and children with disabilities under domestic violence

Sally Robinson provided an overview of trends in recent researching, highlighting the recent focus on intersectionality and family and domestic violence. This was reflected in the experiences shared by Voices for Change, which highlighted intersections between the experience of perpetrators and the victims/survivors, the youth and the family suffering domestic violence, and people with disabilities in terms of poverty, age, cultural diversity, etc. Consideration of the impact of disability and domestic violence is an example of an intersectional approach to research in this space. Conventionally treated as separate (and passive) 'victims', survivors of domestic violence often also experience disability and vice versa, compounding the challenges associated with ensuring families that include persons with disabilities have access to relevant and effective support.

The workshop discussed the need to ensure any legal frameworks designed to support police or court interventions and/or intervention services need to be culturally appropriate, acceptable, affordable, and as early as possible. Interventional services also need to focus on child rights to highlight, consider and treat the perspectives of children with disability within the family functioning, instead of pushing children with disabilities into NDIS. When the problem with the child diagnosed with disabilities is trauma, the impact is particularly huge.

4. Social and emotional drivers of family violence

Nicole Moulding from UniSA highlighted the importance of researching social and emotional drivers of abuse, when considering options for improving legal and service-based interventions. Previous and current research being led by UniSA demonstrate that coercive control behaviours, child abuse and sexual assault are different forms of abuse of violence that are linked and interrelated in our community, and we do not yet understand as well as we should. Domestic violence imposes long term significant impacts on survivors,, it casts a long shadow on mental health, and negatively influence economic and employment capacity of survivors, particularly women.

Mental Health and Human Rights

Geoff Harris, Mental Health Coalition of SA

- Key focus needs to be shifting from medical to social model of mental health care informed by human rights principles
- Legislation important, but also cultural shift is required
- Demands a co-design process – philosophy of care (Ellie , LELAN)
- Demands an integration of human rights in mental health

Shifting from medical to social model of mental health care informed by human rights principles – key considerations include:

- Less restrictive practice, poor treatment
- Recognise job is to support people to lead lives, not just get treatment
 - Living, education, employment, activity, DV, alcohol, drugs, access full rights of citizenship
 - Not where most mental health thinking is at so delivering not seen as integral (aspiration)
 - Aspire to recovery but main services dominated by crisis, hospital, assessment, medication
- Careful evaluation of examples such as the Urgent Mental Healthcare Centre – responding to advocacy of lived experience
 - Link to psychosocial supports, support across sectors
 - Reshape services to deliver results to UMHCC
 - Great innovation but doesn't change dynamic – people impacted by mental health issues can't get support
 - Gap in psychosocial support – 370000 would benefit from psychosocial support – small percentage get it through govt and NDIS (80% left without it)
 - Hospital services – 20% of need unmet (psychosocial largest unmet)
- No driver for investing community support – public opinion for medical models
- KPIs in mental health
 - Based on medical views (20-30 years ago)
 - Hospital wait times
 - Pressure to meet reinforce view that money should be invested in hospitals
 - Don't encourage innovation broadly – links to hospitals
 - Response to LHNs incl questioning evidence UMHCC reduce flow/pressure on EDs
 - Barrier to investing in social models or implementing UN convention on persons with disability in positive sense (rather than just reducing negative)

- Human rights and citizenship benefits needed
- Human rights literacy in mental health
 - High community expectation – ability of mental health clinicians to fix
 - Clinical care only partly what people need
 - Not a consumer oriented view – medical view (UN articulates we need to change)
- Human rights framework
 - Guide policy, culture, legislation, treatment – balance of medical, social models
 - Examples: legislation for consent to medical treatment (better first draft if human rights framework)
 - Action: balance patient human rights, support to decide whether to accept/refuse treatment
 - Regard to evidence base of treatment
 - Reduce poor/restrictive practice, treatment – regard to evidence base treatment
 - Changing KPIs in mental health
 - Mental health legislation
 - Mental health act – human rights elements remain aspirational
 - Analyse – propose areas for human rights improvement (positive outcomes not just negative impacts, evidence)
 - Mental health promotion – public views of mental health
 - Dominance of medical model in how we think
 - Drivers of governance, accountability
 - Advocate development of governance accountability mechanisms (KPIs) to balance medical and hospital focus
 - Recovery vs citizenship
 - Recovery approach valued – limited because only using in narrow sense (system performance, outcomes of interest vs leading better lives, access full rights of citizenship)
 - Medical understanding of mental health
 - Clinicians talk about role as supporting clinical recovery – not a think, not separate from recovery or a step along the way
 - Nurse-led recovery
 - Move to citizenship approach – talk about citizenship, not just recovery to move where recovery stalled
 - US Yale – support to manage in community, get feedback from community to say they're valued

- Trial, evaluate citizenship approach to psychosocial supports in SA

Ellie Hodges, LELAN – mental health policy and co-design principles

- Lived experience involvement and co-design – building on ideas of citizenship
 - Human rights, UN, recovery approach – self-determination, agency, power in people important (lived experience co-design is embodiment of that, gain traction – people who affected involved in decision-making, service design)
- Human rights linked to mental health (UN high commissioner for human rights)
 - 1/4 of our population will in their lifetime experience direct impact through mental health
 - 2/3 don't seek treatment – availability, recognition, choices (past harm/help, don't know)
 - Poor psychological health – die 20 years younger (human rights fundamental breach)
 - Diagnostic overshadowing (mental health blamed for physical issues)
 - Seek help from workforce more stigmatising, discriminatory than general public
 - Some more socially acceptable diagnoses to have
 - Discrimination against certain mental health experiences eg bipolar
 - Beyond blue done well
 - Metro vs regional, remote, colour of skin
 - Quality measure based on clinical outcome/perceived process
 - Ensuring those subject to services are able to provide feedback
 - Difference between good service and good long-term recovery
- Lived Experience important – right to be involved in decision-making
 - Opportunities for it but systems set up that stop it (power, hierarchy, status, money, past decisions)
 - Human-rights approach beneficial – collective involvement leading solutions
 - Different power differential – heart of change needed
 - Greater awareness, recognition, response
- Lived Experience examples
 - UMHCC – like an alternative to emergency department but not true alternative community wants (better than what have good step)
 - Philosophy of care (mental health coalition of SA, LELAN)
 - Co-design with people with lived experience = model of care more humanised about care rather than treatment
 - Ask for chart if needed

- 6 areas
 - Culture, roles and people important
 - Lived experience has to be there (ratio 3:1 staff)
 - Feeling safe – safety not surveillance (ED presence of security)
 - What we say is critical – language can't be understated (person at centre, kind, non-judgmental)
 - Values in action – values driven practice (different recruitment strategies – values alignment with human rights approach to care) (practice gap)
 - Every moment counts – leaving is a crucial step (as or more important – not just left to own devices)
- Humanised alternative to clinician, service led model of care
 - Imposed, push down onto people
- Co-designed with Lived Experience, (LELAN) – from ground up, shift in power dynamic (human rights)
- 6 areas written with
 - We value... because... therefore we want to see... this means people will experience
- Co-design recommendations
 - Commissioning processes
 - Service model
 - Implementation – what people have access to once in centre
 - Governance – need to be co-designed
 - Evaluation – co-designed, space-made for people with Lived Experience
- Partnering with people with lived experience
 - Nothing about me without me
- Lived Experience led initiative – 'by me for me '
 - Suicide prevention
 - Collective understanding to take to govt etc.
 - Other social issues have a role – community is telling us
 - Childhood trauma, psychosocial disability, other disability, chronic illness, housing, homelessness, alcohol/drug
 - Human rights approach could recognise complexity, more personalised
 - 81% disagreed/strongly disagreed felt comfortable/safe in emergency department
- Lived Experience alternative to emergency department – care not treatment, peer support

- Want home-like feel rather than clinical setting
- Doesn't need to be clinical, just need help in the moment
- Understand where problems are
 - Policy – traditionally inaccessible to people with LE
 - Limits accountability for system and service
 - Education grounded on experience rather than DSM or research – more evidence that just what journals put out

John Brayley community treatment orders (what's new, what could be improved)

General Discussion of Key Issues in Mental Health Service Delivery and Design (all participants contributed)

- Re-design of mental health services actions – make sure human rights aspect – co-design needs to be heavily weighted around lived experience
- Co-design is the key feature – not just around individual but around how community responds to mental health/distress
- Providers do individual co-design well but don't do broader co-design so well – do this from human rights perspective because it's a human rights issue
- Broader community from service provider but broader to whole community
 - Sector is reflection of community values – shift these to shift sector
 - Sector focuses on medical models, professionals know best
- Human rights in mental health can put clinicians backs up – not abiding by basic human rights
- Excited about UMHCC as a model of a human rights informed approach –
- Love to see human rights framework in SA – set bar, human rights important
- Youth detention – soft human rights framework for mental health might be something to target
 - Legislation will only go so far, it's policy reform – human rights framework to assess new policy initiatives, evaluation of services
 - Anything new assessed against human rights framework – drive ongoing change, reform, guard against backsliding tends to happen in mental health

Thoughts on key actions developed out of discussion

Human rights framework to inform assessment of new initiative

- Statement of human rights in mental health used as yardstick to assess new initiatives
- Action: support state-wide framework for human rights – influence in terms of value for mental health needs

Culture work should happen – mandate from human rights framework

- Not sure assessment of policy will cut through around culture
- Scottish recovery indicator tool
- Philosophy of care – to drive culture if put in framework of action to implement
- Standards and guidelines for NGO sector, LE
- Culture change in public mental health

Mechanism within health – statement of human rights in mental health as mechanism to assess all new initiatives, policies

What next?

- Convene group to lead the development of a human rights statement around mental health policy in South Australia?
- Change mindsets – human rights is a mindset shift for mental health – if initiatives have to account for this it has to seep into services we get
- Roll of lived experience needs to be important consideration centred in all of this – used purposefully for change

Modern Slavery

Speakers:

- Marinella Marmo
- Katherine Christ
- Abbey Kendall
- Umes Acharya
- Nerida Chazal
- Alexandra Baxter
- Christine Carolan

Key points:

- Identified those at most at risk to modern slavery practices are international students, people on sponsored visas, and overseas workers in areas of agricultural, horticultural and hospitality. And young people, especially girls and young women, facing a forced marriage.
- A common factor is a lack of protection available to those at risk.
- A human rights charter would provide legal recognition where action can occur.
- Modern slavery is a global issue, including in South Australia.
- There is a lack of understanding of what modern slavery is, among society, activist organisations, public and private sectors.

Three means of action moving forward:

Education and Awareness

Generally, people are not aware of what modern slavery looks like and that it exists in South Australia. Education at all levels, public and private, needs to occur in order to:

- Stop the increase of modern slavery instances;
- Prevent intergenerational slavery and the victim-offender cycle;
- Allow for social support groups (inc. family violence sector, medical areas) to correctly identify potential people at risk
- Shift to proactive 'policing' practises; I think this is already the case with the AFP being pro-active
- Stop the normalisation of exploitation of those at risk.

Moving forward

In order to have a human rights framework in SA, the 13 fundamental rights applicable to slavery and slavery-like practices must be considered. Slavery-aware services need to be the normality, not the exception.

Increase education within the community, public and private sectors, in particular, the family violence sector, medical profession, universities, police, other social organisations who are in close contact with the above peoples.

Education can be as simple as asking those who become aware to tell five people or lecturers creating assignments which include modern slavery issues.

Further educating these groups will increase awareness of modern slavery practices. The ability to recognise signs of these acts occurring could increase the opportunities to help the victim(s) quicker and increase the 'people power' to put pressure on politicians to follow through with parliamentary enquiries, change policies and potentially create a South Australian human rights charter.

Political changes are critical in order to be able to ensure those most at risk, have rights providing them with a stronger legal position.

Establishment of a Joint Committee on Slavery and Slavery-Like Practices in SA

As with any human rights issue, modern slavery is impossible to solve among one group or organisation. A holistic approach where individuals, MPs, Governmental and non-governmental agencies, and the media work constructively together towards eradicating slavery in SA is required. A state-led parliamentary enquiry would enable real solutions based on evidence-based discussions.

Moving forward

Support the Stop Modern Slavery SA Campaign calling for the establishment of a joint committee on slavery and slavery-like practices in SA.

- Write to the Premier of SA, Steven Marshall
 - Postal address: GPO Box 2343 Adelaide SA 5001
 - Email address: premier@sa.gov.au
- Sign the [online petition](#);
- Like and follow the Stop Modern Slavery SA [Facebook](#) and [Twitter](#) accounts.

Business

A significant area of concern is supply chains in business. The *Modern Slavery Act 2018 (Cth)* has increased accountability, but only large businesses have to report. We recognise that this has an impact on small and medium businesses who supply to large businesses.

Moving forward

- Public needs to show their consumer powers and support businesses following ethical practises;
- Support businesses who have identified areas of mistreatment of people. However, there needs to be the ability to ensure they are accountable to then follow through with necessary changes, within a specified timeframe, informing on how the issues are being resolved;
- Potential support services for businesses to ratify the problems, victim involvement, working with suppliers rather than cutting them out; we recognise the resources that are available from Home Affairs Unit <https://www.homeaffairs.gov.au/about-us/our-portfolios/criminal-justice/people-smuggling-human-trafficking/modern-slavery-act-coronavirus>
- Holding a holistic approach in order to understand the 'why' and look at the position of victim and offender.

The above needs to work alongside education and increasing awareness, as people need to become aware that modern slavery is real, and it is occurring.

Poverty and Social Security Workshop

Summary of Key Discussion Points:

Susan Tilley, SACOSS Senior Policy Officer

- Extent to which the social security system complies with the International and National Human Rights Conventions.
- 'Realisation of rights is a government responsibility; it shouldn't be placed on the shoulders of individuals. It's the government's responsibility to ensure those rights are met'.
- While living in one of the richest countries of the world, why is there a need for social security and what is happening to the size of this need?
- The social security system was designed to complement economic policies that views employment as the foundation of our economic security.
- People are valued for their contribution to the waged economy such as employment.
- After the 70s, the aim of undertaking full employment was replaced by an 'acceptable level of unemployment'.
- The structural unemployment and inequality increased poverty and dismantled economic security.
- Official unemployment statistics are currently at 7% with youth unemployment at approximately 16%. Across Australia, over 3 million people are estimated to be unemployed. About 10% of households are living in poverty and about 30% of families living in poverty have at least one employed family member.
- Social security in Australia is viewed as a temporary measure such as the payment of jobseeker.
- Department of Social Services provided statistics regarding jobseeker recipients, identified that over 76% of people were on jobseeker for a minimum of 12 months and on average, people over 50 years of age received the payment for nearly for years.
- COVID-19 has stressed our human rights vulnerabilities and exposed that the social security system isn't equipped to meet the change in the economic environment conditions.
- The needed approach and attitudes to those needing social security - most of the social security payments are conditional where in order to get the entitlement, you must meet a number of conditions (mutual obligations).

- Receipt of payments is conditional on a willingness and participation in ways that contribute to the labour market.
- The current approach and attitude views poverty as the outcome of an individual's failure rather than as the result of systemic inequality and structural unemployment.
- Forms of Compulsory Income Management offered in a way of social security by the government such as BasicsCard and Cashless debit card (CDC).
- The issuing of CDC is unsolicited and produces human rights violations as it is a method of racialized surveillance and therefore breaching rights to privacy
- It is not considered as a 'voluntary choice' between the green card or silver card (BasicsCard or CDC) by its recipients.

Greg Ogle, SACOSS Senior Policy Officer

- Poverty premiums: it costs more to be poor - SACOSS advocates for income-based fines
- Fees and charges such as bank dishonour fees and fines payment program fees (payment plan costs \$20.90) undermines the right of those in poverty.
- Undermines rights as fines don't take into account people's context and lives as the fines are flat rights.
- State justice system worsens poverty

Kim, Anti- Poverty Network

- A big violation of rights is the mutual obligations requirements on those in receipt of Centrelink benefits.
- Sometimes a person faces penalties and suspension of payments when it is not necessarily their fault but due to a computer issue or a mistake on behalf of the job agency.
- Government also failed to implement policies that considered the expenses that COVID-19 would incur on a person in receipt of a pension. There were no COVID-19 supplements for those on a pension.
- COVID-19 brought the added costs of being unable to find groceries or paying a premium in the supermarket. For example, with the shortage of toilet paper, many would have struggled to purchase a full pack without having to find and pay more than the usual amount. Many supermarkets discontinued running specials and that could have caused even more issues for those already struggling to budget for grocery shopping.
- Online shopping with a minimum \$100 spend which on a pension can't afford especially with the delivery fees.

- With rent assistance, 26 years ago the assistance provided by Centrelink for a single parent with one child was approximately \$110 a fortnight and now it's \$165, however, in that time, the rent itself has raised higher and higher.
- COVID-19 made the government realise that with the many people that lost employment and relied on Centrelink payments, the payments are inadequate. It needs to remain at the rate that was initially raised in response to covid, but it must be extended across all payment types.
- Lastly, with the CDC because Indue is not a bank, there's no bank protection so if your account with them is hacked or money is missing from your account, there is no protection on the cashless debit card or the basics card.

Actions identified by the Workshop:

1. Raising the rates of social security payments but when talking about raising the rate and fixing the system, it must be looked at as a whole and not just fixing single payment options.
2. Getting rid of compulsory income management as the BasicsCard and Cashless debit card are unsolicited and not voluntary.
3. Removing the mutual obligation requirements of the payments as the non-compliance and penalties to such conditions drive those in need of social security in to further poverty.
4. Fees and charges should take into account people's context and lives as the required payment of the flat rate fines worsens poverty.

Age of Criminality and The Incarceration of Indigenous Australians

This seminar explored two themes, age of criminality and the incarceration of indigenous Australians. These discussions demonstrated unambiguous evidence of inhumane treatment of juvenile prisoners within youth justice centres (majority of which are indigenous). Further, there was a dialogue surrounding South Australian Police's approach of juvenile suspects and seeking admission and liability for the allegation. Ultimately, the results of discussions and the information which was conveyed can only be described as alarming.

Overview of Presenters:

Michelle Hopkins is a Kamilaroi woman with strong cultural ties to North West NSW. She has lived and worked in South Australia for over twenty years and has focused her career on advocating for Aboriginal young people in the Justice System. Currently the General Manager of Community Youth Justice, she is also a lawyer who is currently undertaking her Master of Philosophy at the University of Adelaide about Parties to a First Nation Treaty in Australia.

Christopher Charles, former Principal Legal Officer and General Counsel of Aboriginal Legal Rights Movement, a retired lawyer with many years' experience working with aboriginal people in the criminal justice system.

Incarceration of Youth

Michelle Hopkins

The incarceration of youth inherently has several challenges in the modern age, namely the use of force against children. This comes from Australia's lack of care and interest with the *Universal Declaration of Human Rights*, as Hopkins articulates that [Australia] is very selective to its own commitments of the international obligations. For example, *United Nations Committee Rights of the Child*, recommended that children under the age of 16 should not have been imprisoned. We are yet to do this.

Hopkins also discussed the lack of resources available to youth detainees with mental health issues. There is also a concern in relation to the resources available to young detainees of substance abuse, detention centres do not have the resources or capability to

address this issue internally and therefore must go to hospital for such treatment, however this only occurs in the extreme circumstances.

Further the increase of electronic monitoring of children, as it is a continuous deprivation of a young person liberty, this would ultimately have external discrimination against them because of the appearance of such tracking device. Disproportionately, aboriginal young people and children are subject to electronic monitoring. Once these subjects are under such monitoring, they are then under the eyes of South Australian Police who have questionable tracking methods.

Further material to consider:

- [Coroners Findings of Heidi Eileen Roseanne Singh](#)

Age of Criminality and The Incarceration of Indigenous Australians

Christopher Charles

The age of criminal responsibility within South Australia is 10 years and above,¹ the *Young Offenders Act* operates in lieu of the common law principle *Doli incapax* (incapable of crime). However, this can be rebutted by prosecution with evidence to the contrary. For example, a 12-year-old male was charged for murder where he had an appreciation of right and wrong, and knew the conduct was wrong.²

Charles, confirms that *doli incapax* is easily overcome by 'police getting hold of the child' and making them to give admissions to the crime or offence. Further, Police may use ss 7 – 8 of the *Young Offenders Act*, as cautions would normally require an admission, cautions operate permanently and therefore may establish the *mens rea* required for young offenders. However, Charles states that *mens rea* of the child, is an individual question for the individual child, and states that the present law is inappropriate.

Indigenous Australians

The alcohol and controlled substance abuse is an issue, where the State provides extraordinarily little support or resources to young offenders to address such addictions. However, it should be noted that consumption of alcohol and controlled substance

¹ *Young Offenders Act* 1993 (SA) s 5 ('*Young Offenders Act*').

² See eg, *R v M* (1977) 16 SASR 589.

between Indigenous Australians compared to non-indigenous Australians, non-indigenous Australians consumes more.

There is bias against Indigenous Australians when in the criminal justice system compared to non-indigenous Australians. The observations of the former Chief Justice of Western Australia, Wayne Martin, summaries this:

The system itself must take part of the blame. Aboriginal people are much more likely to be questioned by police than non-Aboriginal people. When questioned they are more likely to be arrested rather than proceeded against by summons. If they are arrested, Aboriginal people are much more likely to be remanded in custody than given bail. Aboriginal people are much more likely to plead guilty than go to trial, and if they go to trial, they are much more likely to be convicted. If Aboriginal people are convicted, they are much more likely to be imprisoned than non-Aboriginal people, and at the end of their term of imprisonment they are much less likely to get parole than non-Aboriginal people. Aboriginal people are also significantly over-represented amongst those who are detained indefinitely under the dangerous sexual offenders legislation. So, at every single step in the criminal justice process, Aboriginal people fare worse than non-Aboriginal people. ... [O]n a lawyer's analysis, these laws cannot be said to discriminate against Aboriginal people, or to result in unequal treatment, because they do not discriminate by reference to Aboriginality, but rather by reference to characteristics with which Aboriginal people are much more significantly associated.³

Further material to consider:

- [Coroners Findings of Heidi Eileen Roseanne Singh](#)
- [Don Dale Royal Commission Final Report](#)

Action Plan

- Continue with internal advocacy within employment
- Identify who needs to be convinced to raise the age of criminal responsibility in SA and clarify what will be needed to convince them
- Write written submissions to Attorney-General
- Continue to research within this area

³ Wayne Martin, 'Unequal Justice for Indigenous Australians' (2018) 14(1) *Judicial Review* 35, 49–51.

Young People's Rights and Voices for Change

The Young People's Rights and Voices for Change is a workshop that is conducted by the Rights Resource Network on the 10 of December 2020 to empower young people for positive change. The workshop addresses preliminary issues that concern young people in our contemporary society and suggests useful mechanisms to improve the current educational system in Australia. Notwithstanding this, there is a need for strict enforcement of the human rights framework to ensure that young people are working in a safe community.

Suli—Victims of abuse in developing countries

Suli is a student who is currently studying a Bachelor of Laws double degree at the University of South Australia. She voiced her personal experiences on the lack of awareness that is raised for young children in Sri Lanka. Suli is a member of Concrete Angels, a non-for profit organisation which began in 2015 to raise awareness for children in rural areas. Their main approach is to educate young people through workshops and communicating to children to raise greater awareness of abuse. Since then, the project has been working closely with the National Youth Counselling Association in Sri Lanka and receiving further aid from the World Health Organisation. Suli identified that there is still a major difference between the level of awareness that is raised in rural and metropolitan areas in Sri Lanka. In particular, there were very little awareness that was raised for children to have a voice in rural areas compared to metropolitan regions. In comparison with South Australia, Sri Lanka does have a human rights legislation to protect children. However, there is a lack of enforcement of the legislation and most people do not have knowledge on the possible remedies that are available to protect children in the developing country. The legislation is basic and there is no precise expression to protect children. Suli's inspiring story demonstrate that even when there is a human rights legislation, it does not necessarily mean that the practical affect is achieved. Moreover, a young person may have the best interests, but not necessarily have the right to be heard. Despite a human rights legislation, there also need to be strict enforcement. A human rights legislation must be very specific and precise about the matters that young people face. This discussion provides useful insight on the basic issues that young people face in a developing country and the need for effective enforcement.

Skye—Bridging the gap between politicians and young people

Skye is a policy and research leader at an organisation called JFA Purple Orange and works in the disability policy space. Skye provides useful insight on approaching a politician to address issues on young people. Young people can often find themselves in a very tricky spot because politicians engage and talk to people who can vote for them. This creates an issue for young people because they are not eligible to vote until they are 18 years of age. Therefore, it is important to create a level of communication between politicians and young people. Skye also discussed that politicians are often older and can be out of touch with young people. Consequently, there is a need to bridge a gap between politicians and young people. Skye provides some simple, yet effective ways to engage with a politician to advocate these issues regarding young people. When engaging with a politician, make sure to be really clear on what the purpose of the meeting is and this should be precisely set out in the emails. Timing is also crucial and it is important to not connect with politicians during a sitting week where they are going to be in and out of the chamber. People should have an open and receptive approach to make sure that their issue gets the attention that it deserves.

Hybrid identities

There are cultural discrepancies that flow from cultural globalisation. This allow different forms of identity to overlap in migrant populations. Hybrid identity refers to the ways in which forms become separated from existing practices and recombine with new forms in new practices. Cultural hybridity is where elements of cultures are incorporated to create a new hybrid culture. This is particularly impacting on young people and there is a need to make young people comfortable with their sense of belonging in the Australian community. Due to the fact that Australia is a multi-cultural country, the law must be developed to provide rights for young people to express their plural identities and engage in diverse cultural practices. It is important for the law to be designed in a way that provide young people to work in safe relationships and communities.

Richard—contemporary issues that the Australian youth currently face

Richard is the policy officer at the Youth Affairs Council of South Australia (YACSA). YACSA is a member-based independent body that represents the interests of young people through advocacy and representation. YACSA corporates with the government and their main role is to conduct research, dissect information and consult or make inquiries to young people through community engagement. In the workshop, Richard highlighted some of the main issues that young peoples are currently facing in Australia. Young people are heavily impacted by the way COVID-19 is driving education on online platforms. The Recent Tertiary Education Quality and Standards Agency report

demonstrated that up to 50 percent of young people were unhappy with their experience with online education and did not intend to continue on to next year. Notwithstanding this, entry level jobs have decreased and professions are unstable. There is a need for a meaningful human rights framework to compel decision makers to acknowledge human rights issues and policy.

Implementations for change

In the workshop, there were several suggestions that addressed the issues on young people. In particular, a school engagement program could be implemented to raise awareness on the rights of young people. The school engagement program should not only focus on the educational system, but also on what young people's rights are as a human being in Australia. This program should provide young people of an understanding about discrimination laws and what their rights are as a citizen in Australia.

There is also a suggestion to work closely with the parliamentary educational officer to implement the school engagement program and improve the standards that is currently imposed on young people. The parliamentary educational officer is apolitical, so there will likely not be any bias towards any party trying to exert a level of influence over young people. The parliamentary educational officer is a non-partisan and independent person.

What Next?

We get busy turning our talk into action! And we've already started! You can see our latest submissions, statements, briefing notes and workshops on our website rightsnetworksa.com. But we need help to turn these great ideas into reality, and we'd love to hear from you. Everyone can be part of the changes this Report aims to inspire. We connect academic researchers, community organisations, students and individuals with each other and with policy and law makers in South Australia. Join us today!

GET INVOLVED

Our strength is amplified with collective action. Together we work with our Community Partners, Members and Volunteers to address some of society's most challenging problems. Make a difference to rights outcomes in South Australia by getting involved with The Rights Resource Network today.

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And thank you for everything you do.
Your lived experience, your work, your words, your support makes a difference.