

Human rights and child health

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Abstract: Human rights are those basic standards without which people cannot live in dignity.

Children are at risk of human rights violations because of their vulnerability in society. The Convention on the Rights of the Child (CRC), a United Nations (UN) treaty acknowledges that addressing children's human rights requires special attention. In Australia groups such as children seeking asylum, Aboriginal and Torres Strait Islander children, children with disabilities, children in care and children living in poverty are identified to be at particular risk. As individuals and collectively, we have had a long history of gathering information, advocacy and tailoring training to improve children's health and well-being. A human rights approach and the use of the CRC provide an additional framework to do this.

Key words: advocacy and paediatricians; child rights.

There can be no keener revelation of a society's soul than the way in which it treats its children.

Nelson Mandela, the Launch of
the Nelson Mandela Children's Fund, 1995

Throughout the world, millions of children have their rights compromised by poverty, malnutrition, armed conflict and humanitarian crises. The violation of the rights of children, such as a lack of access to education, safe shelter and health care,¹ is not only a problem of 'other poorer countries'. Human rights violations occur in Australia, particularly among children seeking asylum^{2,3} Aboriginal and Torres Strait Islander children,⁴⁻⁶ children with disabilities⁷ and the estimated 800 000–1.3 million children living in poverty (17–26% of all Australia's children).⁸ In the 'developed world', the violations of the human rights of children looks set to worsen as the demography of society shifts to one of an ageing population where children compete with the older voting population for services and

resources.⁹ It is likely that this shift will further marginalise the most vulnerable children in our society.

As paediatricians, we advocate for children's rights on a daily basis and are well aware that indicators of poor child health and well-being are closely related to the social, economic and physical environments in which children live. We regularly deal with child development, mental and behavioural disorders, child abuse, children in out-of-home care, obesity and school failure that affects the disadvantaged children that we see. The majority of us have not had formal 'training' in advocacy and at times the hopelessness of cases that we deal with in our daily practice can be overwhelming. The adoption of a human rights framework and the use of tools such as the Convention on the Rights of the Child (CRC) offer a much needed system for effective advocacy.

What are Human Rights?

The notion of human rights has existed in moral and ethical terms for centuries. One definition for human rights is those basic standards without which people cannot live in dignity. To violate someone's human rights is to treat that person as though she or he were not a human being. Human rights are held by all persons equally, universally and forever. Human rights are *inalienable, indivisible and interdependent*. The term *inalienable* means you cannot lose these rights any more than you can cease being a human being. *Indivisible* means you cannot be denied a right because it is 'less important' or 'non-essential' and *interdependent* refers to the complementary nature of human rights so that for one right to be possible it may require that other rights are fulfilled.¹⁰ In claiming our human rights, we also accept the responsibility not to infringe on the rights of others and to support those whose rights are abused or denied. In the case of children, adults are required to take responsibility in order to ensure that children's rights are protected.

Key Points

- 1 Child rights violations occur in Australia.
- 2 Paediatricians know of children who have had their rights violated through their clinical practice and other professional responsibilities.
- 3 A human rights approach and the Convention for the Rights of the Child provide a framework to inform child health data collection, advocacy and training.

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Human rights are divided into two classes: (i) civil and political rights; and (ii) economic, social and cultural rights. Civil and political rights include the rights to life, liberty, security, to not be arbitrarily arrested or detained, to freedom of movement, to a fair trial and to participate in the government of the country. Economic, social and cultural rights include the right to health, education, housing, food and social security. This group of rights requires active participation of the State to provide the necessary resources and services for their safekeeping. The protection of these rights is dependent on the policies and philosophies of the government of the day and it is this that makes them vulnerable to abuse.¹¹

The CRC

Since 1924, when the League of Nations adopted the Geneva Declaration of the Rights of the Child, the international community has made a series of firm commitments to children to ensure that their rights to survival, health, education, protection and participation are met.¹ In 1945, the Human Rights Charter was developed in response to widespread human rights violations of World War II and was signed by all members of the United Nations (UN). Between 1945 and 1948, the Universal Declaration of Human Rights was developed as a way of formalising and further addressing the rights of all. As charters and declarations, these were not legally binding. However, they provided the impetus for the development of more specific and legally binding covenants (or conventions). The CRC, a UN treaty developed in 1989, is the most far-reaching and compre-

hensive commitment to children's rights. The CRC acknowledges that addressing children's human rights requires special attention because of their vulnerability in society. The UN General Assembly adopted the Convention into international law in November 1989, and it came into force in September 1990. The treaty is now ratified by all but two countries, namely Somalia and the United States. The implementation of the CRC by countries that have acceded to it is monitored by the Committee on the Rights of the Child.¹²

The CRC defines a child as any person younger than age 18 years, unless an earlier age of majority is recognised by a country's law. The CRC details the rights of all children, including their right to health, to education, to an adequate standard of living, to leisure and play, to protection from exploitation and to express their own opinions. The 54 articles of the Convention incorporate the civil, political, economic, social and cultural spectrum of human rights and take into account how developmental stages will influence the degree to which children can exercise these rights themselves. Table 1 (adapted from Waterston¹³) lists the articles in the CRC that are particularly useful when advocating for children's health.

What is happening in Australia?

Australia ratified the CRC in 1990 and has therefore committed to utilising the Convention as a guide to policymaking and policy implementation. Australia regularly reports to the Committee on the Rights of the Child regarding measures taken to optimise children's rights.

Table 1 Articles of the UN CRC that apply to child health

Article	Purpose
Article 2	Protection from discrimination
Article 3	Best interests of the child a primary consideration: the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities
Article 5	Parents responsible for ensuring that child's rights are protected
Article 6	Right to survival and development
Article 9	Right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis
Article 12	Right of the child to express their view, considering the maturity of the child
Article 13	Freedom of expression including seeking, receiving and imparting information
Article 16	Protection of privacy
Article 17	Access to information from mass media, with protection from material injurious to a child's well-being
Article 18	Assistance to parents with child rearing responsibilities
Article 19	Protection from physical and mental violence, abuse or neglect
Article 20	Special protection for children deprived of their families
Article 22	Protection of children seeking refugee status
Article 23	Rights of disabled children to special care
Article 24	Right to health and access to health care
Article 27	Right to an adequate standard of living
Article 28	Right to education
Article 30	Right to own culture and religion
Article 31	Participation in leisure and play
Article 34	Protection from sexual exploitation

CRC, Convention on the Rights of the Child; UN, United Nations.

Box 1

Recommendations of the UN Committee on the Rights of the Child to the Australian Government, October 2005

- 1 Develop and implement a 'National Plan of Action for Children' in addition to the National Agenda for Early Childhood.
- 2 Provide adequate powers and resources to the Parliamentary Secretary for Children and Youth.
- 3 Prioritise budgetary allocations so as to ensure the economic, social and cultural rights of children.
- 4 Improve data collection on child health indicators especially for children in need of special protection (Aboriginal, out of home care, juvenile justice, homeless, children with disabilities).
- 5 Provide training in children's rights for professional groups working with and for children.
- 6 Ensure full respect for the rights of Aboriginal children to their identity, name, culture, language and family relationships.
- 7 Ensure children's participation in decision making.
- 8 Prohibit corporal punishment in all settings.
- 9 Strengthen the support of children in out of home care.
- 10 Prevent and combat child abuse.
- 11 Increase accessibility and funding of early intervention and therapy services for children with disabilities.
- 12 Promote further research on the diagnosis of ADHD and ADD, the impact of psychostimulants and other forms of behavioural therapy.
- 13 Strengthen efforts focused on adolescent health, in particular mental health and substance abuse.
- 14 Ensure that children are not automatically detained in the context of immigration.

ADD, Attention Deficit Disorder; ADHD, Attention Deficit Hyperactivity Disorder; UN, United Nations.

The most recent report from Australia to the UN Committee on the Rights of the Child was submitted in September 2005.¹⁴ In it, the Australian government highlighted that it spends \$20 billion a year on assistance to families and that there were a number of initiatives that promote children's rights, including the establishment of the Federal Department of Family and Community Service and The Stronger Families and Communities Strategy 2004–2009, the establishment of 'Families Australia', initiatives to improve data collection on key child health indicators and a Universal Prevention Policy Framework to further focus on Indigenous children's development.

In reply and after consideration of a submission to the UN by the National Children and Youth Law Centre on behalf of non-government organisations working with children in Australia,¹⁵ the UN Committee on the Rights of the Child highlighted that child rights issues have been insufficiently or only partially addressed by the government. The UN documented concerns with regard to the plight of Aboriginal children, children in immigration detention and children in need of care and protection (including those in the juvenile justice system and homeless children).¹⁶ It also highlighted that corporal punishment was still legal in some States and Territories; and that children continued to be incarcerated with adults, rather than in a separate facility. It noted that the position of Minister for Children and Youth Affairs established in 2002 was downgraded to a Parliamentary Secretary position (under the Minister for Family and Community Services) in 2004. In total, 72 recommendations were made to the Australian Government by the UN Committee to ensure the rights of Australia's children. Box 1 highlights those of particular relevance to child health.

To advance activities relevant to the CRC, some states in Australia have appointed a Commissioner for Children and Young People (New South Wales, Tasmania and Queensland). The NSW Commission for Children and Young People has dem-

onstrated some early success in consulting with children on their submissions regarding public education and young driver safety,¹⁷ in line with mounting evidence that children can contribute effectively to health service development if they are consulted.^{18,19}

How are child rights relevant to Paediatricians?

Paediatricians encounter situations each day where positive advocacy for children and families is required.²⁰ Indeed, paediatrics arose from advocacy efforts; the specialty came into being because doctors caring for children recognised their needs as being distinct from adults.²¹ Paediatricians in Australia frequently encounter violations in human rights for the children they serve, including lack of access to early intervention services, good quality childcare and suboptimal foster care arrangements. This is despite good evidence to support intensive home visiting,²² and pre-school education.²³ Paediatricians have openly acknowledged that they at times compromise diagnostic rigour in order to access early intervention services.²⁴ We know that when paediatricians work within systems where children's rights are being violated repeatedly (through lack of access to services for example), they are at increased risk of 'burn out'.²⁵ There is growing evidence that clinicians can make a difference to the fulfilment of children's rights through a range of advocacy activities.²³ Table 2 demonstrates the use of the CRC in highlighting human rights violations in common paediatric scenarios, as well as possible advocacy channels to address them.

What can paediatric organisations and their members do?

There is sufficient evidence globally to acknowledge that the CRC has influenced children's rights to health and well-being,

Table 2 Use of CRC to promote advocacy in common paediatric scenarios

Scenario	Articles of CRC violated	Examples of advocacy pathways
Three-year-old boy with mild global developmental delay needing early intervention. Parents unable to afford private services. On a 9-month waiting list for therapy and pre-school.	2, 3, 4, 6, 18, 23, 24, 29	<ul style="list-style-type: none"> • Collate evidence about the effectiveness of early intervention • Collect information about the number of children in need not receiving services • Contact the State Minister for Disability Services, Child Protection, Education, Health • Contact Children's Commissioner • Contact Disability advocacy groups • Contact Ombudsman
Six-year-old Aboriginal boy with developmental/ learning problems and severe behaviour problems. Multiple foster care placement breakdowns, disrupted schooling. Has had no medical assessments and no intervention. School threatening expulsion.	2, 3, 4, 6, 9, 20, 23, 24, 28	<ul style="list-style-type: none"> • Collate evidence about the effectiveness of early intervention • Collect information about the number of children in need not receiving services • Contact the State Minister for Disability Services, Child Protection, Education, Health and Aboriginal affairs • Contact Children's Commissioner • Contact Ombudsman • Contact Local Aboriginal NGOs • Contact Aboriginal Medical Services
In a district hospital, adults are being admitted to the Children's Ward because of relatively low occupancy compared with adult wards. Nursing staff have raised child protection concerns and the inability to provide appropriate care to high needs patients.	3, 6, 19, 24, 34	<ul style="list-style-type: none"> • Contact State Minister for Health, child protection • Contact Children's Commissioner • Contact Association for Welfare of Children in Hospitals • Australasian Children's Hospital network

CRC, Convention on the Rights of the Child; NGO, non-government organisation.

mainly in the form of legislation.²⁶ Recently, mainstream medical journals such as the British Medical Journal, Archives of Disease in Childhood, Pediatrics and the Lancet have run series on child rights and human rights.²⁶⁻²⁹

What has been its impact on paediatric organisations? In recognition of the importance of child rights, the Royal College of Paediatrics and Child Health (RCPCH) published a paediatricians guide to advocacy in 2000.²³ In the UK, the RCPCH has been actively involved with several initiatives to promote child rights.³⁰ The RCPCH has launched a strategy to promote participation of children and young people,³¹ has publicly joined campaigns promoting children's rights (including the Children are Unbeatable Alliance, and the End Child Poverty campaign), and contributes to lobbying on inequalities in child health and against war, landmines and cluster bomb use. The RCPCH has also joined with the American Academy of Pediatrics to promote education and advocacy efforts among paediatricians in the use of CRC.³²

In Australia, the Royal Australasian College of Physicians (RACP) has played a solid advocacy role for refugee children and children in detention, using the language of child rights. During 2002 and 2004, the RACP was part of an unprecedented alliance of health-care professionals and allied health organisations that presented a key report to the Human Rights and Equal Opportunities Commission on children in detention. In addition, The Australian Research Alliance for Children and Youth

has been established to provide a collaborative, intersectoral approach to research that links clinicians, researchers and policymakers and provides avenues for more effective lobbying.

What further steps can we take to use a human rights approach to improve our ability to act as advocates for children in Australia? Suggestions are outlined in Box 2 and include training on human rights and advocacy for paediatricians; the need for health systems to collect data on and monitor their response to child rights violations; and the need for child health indicators that are socio-economically dependent which can be routinely reported as key performance indicators.²⁸

Conclusion

Paediatricians as individuals and collectively have had a long history of advocacy to improve children's health and well-being. Waterston and Tonniges suggest that while the concept of 'one paediatrician can make a difference' should be promoted, the collective force of a body of paediatricians and child health specialists is underutilised.³³ By using the concept of 'rights' in concerted and systematic lobbying by ourselves and the organisation that represents us (the College), we can add an 'element of accountability and a legal framework that can be used to make governments wake up to their obligations to make things happen'.²⁹ The child rights framework is an important tool to contribute to this ongoing endeavour.

Box 2

Strategies for improving child health and well-being using a human rights framework

Training

- 1 Training on advocacy and human rights in child health for paediatricians and trainees through the new RACP curriculum for basic and advance training in paediatrics.

Gathering evidence

- 1 Develop data systems that can monitor agreed national child health indicators and markers of disparity.
- 2 Gather evidence from children on their experience of the issue of concern; involve children in research and facilitate their participation in projects and policy development.
- 3 Research internationally for evidence of how comparable issues are addressed.
- 4 Lobby government and parliamentarians to introduce the changes necessary to protect children's well-being, using the evidence gathered.
- 5 Use policies already researched and developed by the RACP in advocacy, including policies on children in out of home care, refugee children, and standards for paediatric health-care services.

Collaboration

- 1 Initiate an advocacy campaign among clinicians, within the College or practitioners more broadly, to change policy and practice in accordance with the UN Convention on the Rights of the Child.
- 2 Identify key players with whom to collaborate in order to effect changes in policy and legislation.
- 3 Identify possible legislation into which changes could be introduced.
- 4 Act as a resource person to consumer advocacy groups and communities.
- 5 Collaborate with the RCPCH, RACP and AAP on advocacy and human rights frameworks.
- 6 Collaborate with existing groups such as Amnesty International, UNHCR, UNICEF.
- 7 Issue press releases whenever an opportunity arises to link issues of concern to topical news items.
- 8 Highlight how the government could improve in meeting its obligations under international law to protect the rights of children.

AAP, American Academy of Pediatrics; RACP, Royal Australasian College of Physicians; RCPCH, Royal College of Paediatrics and Child Health; UN, United Nations; UNHCR, United Nations High Commission for Refugees; UNICEF, United Nations Children's Fund.

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