

Human  
Rights  
Law  
Centre.

Submission to 2024-25 Federal Budget  
consultation

2 February 2024

# Human Rights Law Centre

Human Rights Law Centre Ltd  
Level 17, 461 Bourke Street  
Melbourne VIC 3000

**T:** + 61 3 8636 4450  
**F:** + 61 3 8636 4455  
**E:** [admin@hrlc.org.au](mailto:admin@hrlc.org.au)  
**W:** [www.hrlc.org.au](http://www.hrlc.org.au)

## Human Rights Law Centre

The Human Rights Law Centre uses strategic legal action, policy solutions and advocacy to support people and communities to eliminate inequality and injustice and build a fairer, more compassionate Australia. We work in coalition with key partners, including community organisations, law firms and barristers, academics and experts, and international and domestic human rights organisations.

The Human Rights Law Centre acknowledges the people of the Kulin and Eora Nations, the traditional owners of the unceded land on which our offices sit, and the ongoing work of Aboriginal and Torres Strait Islander peoples, communities and organisations to unravel the injustices imposed on First Nations people since colonisation. We support the self-determination of Aboriginal and Torres Strait Islander peoples.

Follow us at <http://twitter.com/humanrightsHRLC>

Join us at [www.facebook.com/HumanRightsLawCentreHRLC/](http://www.facebook.com/HumanRightsLawCentreHRLC/)

Follow us at Threads

Follow us on Instagram

# Contents

<b>1. Introduction</b>	<b>4</b>
<b>2. Recommendations</b>	<b>4</b>
<b>3. An Australian Charter of Human Rights</b>	<b>5</b>
3.1 The Federal Budget and Statement of Compatibility	5
3.2 The need for an Australian Charter of Human Rights	6
<b>4. Increasing legal aid for multiple communities</b>	<b>9</b>
4.1 Funding for Aboriginal Legal Services	9
4.2 Funding for legal aid support for temporary migrants	9
4.3 Funding for legal aid support for whistleblowers	11
<b>5. Commonwealth Anti-Slavery Commissioner</b>	<b>12</b>
<b>6. Implementation of OPCAT</b>	<b>13</b>
<b>7. Access to Medicare in prisons</b>	<b>13</b>
<b>8. A fairer social security system</b>	<b>14</b>
<b>9. Funding for a Whistleblower Protection Authority</b>	<b>15</b>

# 1. Introduction

Thank you for the opportunity to make a submission on the upcoming 2024-25 Federal Budget.

The Human Rights Law Centre works across a range of issues, including campaigning for a federal Charter of Rights, migration justice, prisoners' rights, whistleblower protection and modern slavery, each of which have implications for the 2024-2025 budget process. Were each of the recommendations below implemented in this coming budget, Australia would be in a much stronger position to meet its international human rights obligations across a wide range of issues.

# 2. Recommendations

The Human Rights Law Centre recommends the Federal Treasury should:

- 1) Implement in full the Parliamentary Joint Committee on Human Rights suggestion action 2.23 in its Scrutiny Report 8 of 2023 in formulating the 2024-25 Federal Budget;
- 2) Appropriately fund Aboriginal legal Services by:
  - a. Restoring indexation of all service funding to Aboriginal Community Controlled Organisations to at least match CPI and increase base funding to make up for past funding shortfalls;
  - b. At a minimum, doubling the Commonwealth Government's contribution to base funding to Aboriginal Legal Services; and
  - c. Taking advice from the National Family Violence Prevention and Legal Services Forum on the funding needs of its members and ensure these essential services can support everyone in need;
- 3) Provide appropriate funding for specialised legal services for temporary migrants:
  - a. including (but not limited to) services to support access to 'visa protections' for temporary migrant workers;
  - b. to be allocated amongst community legal centres and Migrant Workers Centres, established in each state and territory.
- 4) Support an appropriate level of funding (with accompanying legislative amendments as necessary) for the establishment of a program to ensure that whistleblowers making disclosures under federal laws can obtain access to legal support (to an appropriate cap) to seek advice in relation to their rights concerning potential or actual disclosures, and potential steps to vindicate their rights and seek remedies, in addition to a smaller capped amount for associated costs such as welfare and career transition costs;
- 5) Expand the current budget for the office of the Anti-Slavery Commissioner to ensure it can carry out its functions effectively;
- 6) Allocate funds to adequately fund OPCAT implementation alongside the states and territories;
- 7) Allocate funds to provide fair and equal access to the Age Pension for Aboriginal and Torres Strait Islander people;
- 8) Provide appropriate funding for the establishment of an independent Whistleblower Protection Authority to ensure sufficient resourcing for the WPA to oversee and enforce federal whistleblower protections and for the provision of

support to whistleblowers and other agencies with respect to whistleblowing disclosures.

The Human Rights Law Centre recommends the Federal Government should:

- 1) Support an Australian Charter of Human Rights;
- 2) Ensure equivalency of medical care for people in prison across the country by granting an exception under section 19(2) of the *Health Insurance Act 1973* (Cth) to allow health care providers in prisons to claim the Medicare Benefits Schedule and PBS subsidies.

## 3. An Australian Charter of Human Rights

The Human Rights Law Centre echoes the Parliamentary Joint Committee on Human Rights' (PJCHR) recommendations on better reflecting human rights in the Budget Bills that are introduced to Parliament, and also calls for the adoption of an Australian Charter of Human Rights and the related development of human rights budgeting processes.

### 3.1 The Federal Budget and Statement of Compatibility

Under section 8 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (**the Act**), legislation introduced to Federal Parliament must include a Statement of Compatibility that makes an assessment of the Bill's compatibility with human rights. Section 3 of the Act defines "human rights" as meaning the rights and freedoms recognised or declared by the following international instruments:

- the *International Covenant on Economic, Social and Cultural Rights*;
- the *International Covenant on Civil and Political Rights*;
- the *International Convention on the Elimination of All Forms of Racial Discrimination*;
- the *Convention on the Elimination of all forms of Discrimination Against Women*;
- the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*;
- the *Convention on the Rights of the Child*; and
- the *Convention on the Rights of Persons with Disabilities*.

Our submission to the 2023-24 Federal Budget consultation process highlighted that with respect to the October 2022 Federal Budget, the PJCHR, tasked with scrutinising proposed legislation under sections 4 - 7 of the Act, made the following comment:

*The committee considers that proposed government expenditure to give effect to particular policies may engage and promote, or limit, a range of human rights. The committee acknowledges that appropriations bills may present particular difficulties given their technical and high-level nature, and as they generally include appropriations for a wide range of programs and activities across many portfolios. As such, it may not be appropriate to assess human rights compatibility for each individual measure. However, the committee considers that the allocation of funds via appropriations bills is susceptible to a human rights assessment that is directed at*

*broader questions of compatibility, namely, their impact on progressive realisation obligations and on vulnerable minorities or specific groups.*<sup>1</sup>

Our submission to the 2023-24 Federal Budget recommended that the budget should adopt the recommendations of the PJCHR scrutiny report.

Unfortunately, there was no change in approach in the 2023-24 Federal Budget. The PJCHR scrutinised the 2023-24 Federal Budget Appropriation Bills and after considering the Minister's response to initial concerns raised by the Parliamentary committee made the following recommendation:

*The committee's expectation is that statements of compatibility with human rights accompanying appropriations bills should address the compatibility of measures which directly impact human rights and which are not addressed elsewhere in legislation. In particular, the committee expects that where the appropriations bills propose a real reduction in funds available for expenditure on certain portfolios or activities that may impact human rights, the statement of compatibility should identify this and explain why this is a permissible limit.*<sup>2</sup>

We recommend that the 2024-25 Federal Budget adopt the approach put forward by the PJCHR with respect to how the budget is prepared, and the Budget Bills presented to Parliament for enactment, by addressing the compatibility of measures which directly impact human rights that are not addressed elsewhere in legislation.

In our view, the Federal Budget can be made even better with an Australian Charter of Human Rights, as outlined below.

### **3.2 The need for an Australian Charter of Human Rights**

No matter who we are or where we are, our lives are better when we all treat each other with fairness and respect and when we can all enjoy our rights and freedoms. But powerful politicians and corporations don't always respect people's rights. Charters of Human Rights help to level the playing field by promoting respect for human rights and by giving people power to take action if their rights are breached.

Charters of Human Rights ensure the actions of our governments are guided by values of freedom, equality, compassion and dignity. Charters foster respect for human rights and help everyone, from school children to people who decide to call Australia home, to understand the rights and freedoms that we all share. Charters reflect our values and help to articulate the kind of society we all want to live in.

Charters prevent human rights violations by putting human rights at the heart of decision making when governments are developing laws and policies and delivering services.

---

<sup>1</sup> Parliamentary Joint Committee on Human Rights, Report 6 of 2022; [2022] AUPJCHR 44, pages 14 – 15 on Appropriation Bills 2022-2023.

<sup>2</sup> Parliamentary Joint Committee on Human Rights, Report 8 of 2023; [2023] AUPJCHR 68, page 109 on Appropriation Bills 2023-24.

Importantly, they also provide a powerful tool to challenge injustice, enabling people and communities to take action and seek justice if their rights are violated.

Yet, Australia has no national Charter of Human Rights that comprehensively protects people's human rights in law. We are the only Western democracy without a national Charter or similar law.

There are three Charters of Rights operating successfully at the state and territory level; in the Australian Capital Territory (ACT) since 2004, Victoria since 2006, and Queensland since 2020. These Charters have been quietly improving people's lives, in small and big ways. They have helped to ensure that people are treated with greater fairness, dignity and respect, stopping families from being evicted into homelessness, ensuring people with a disability receive appropriate support and so much more.

The Victorian Charter and the Queensland and ACT Human Rights Acts all work in a similar way. They protect and promote people's rights when dealing with governments; the Victorian Government, Queensland Government and the ACT Government respectively. They also promote transparency in the way the governments and parliaments deal with human rights issues.

They require public authorities, including government departments, public servants, local councils, police and other agencies, to:

- Properly consider human rights when making laws, developing policies, delivering services and making decisions; and
- Act compatibly with human rights.

They require that new laws must be assessed in Parliament against human rights standards. In some circumstances, a parliament can expressly choose to override human rights.

In some circumstances, they allow governments to limit or restrict human rights. Governments can only do this if they have a good reason for restricting the right and they do it in a reasonable way that is justified in a free and democratic society. In assessing whether a government has lawfully restricted a right, a court will look at things like the nature of the right, the reason for the restriction and any reasonably available less restrictive ways to achieve the purpose for the restriction. In broad terms, to lawfully restrict a right, a government must have a good reason for the restriction and must use the lowest level of restriction to get the job done.

If a government doesn't act compatibly with human rights or properly consider human rights, the Charter and Human Rights Acts give people the power to take action in the courts. There are different ways of doing this in each state or territory that has a Charter.

By taking legal action, people can stop governments from breaching their human rights. However, people can't get money as compensation if a government breaches their human rights. Also, courts can't invalidate laws that breach human rights. Parliaments have the final say on whether laws can breach human rights.

The Charters and Human Rights Acts require courts to interpret laws consistently with human rights.

If someone thinks their rights have been breached or may be breached, they can make a complaint about the issue directly with the relevant government agency. They can also make a human rights complaint to the Victorian Ombudsman in Victoria and the Queensland Human Rights Commission in Queensland.

The Human Rights Commissions in Victoria and Queensland each monitor and report on the operation of the Charters or Human Rights Acts in their relevant state or territory. The Charters and Human Rights Acts in Victoria, Queensland and the ACT don't apply to the Federal Government or other state and territory governments.

Charters have:

- Helped governments to identify and address human rights issues affecting people at an early stage of policy development.
- Ensured transparency around how governments and parliaments have considered people's human rights.
- Promoted better understanding of human rights.
- Prevented human rights issues from escalating.
- Provided a way for people to resolve human rights issues by raising them with government and other agencies.
- Given people the power to take action and address human rights issues affecting them through complaint mechanisms and in the courts.

There is growing experience overseas of applying human rights in the budget process to achieve better outcomes for everyone in the community. In 2017 the Office of the United Nations High Commissioner for Human Rights released a report called 'Realising human rights through government budgets.'<sup>3</sup> Scotland provides a practical example of human rights principles being put into budget action, as outlined by the Scottish Human Rights Commission in their September 2019 'Human Rights Budget Work' briefing papers.<sup>4</sup> A more direct local example is gender-based budgeting, an element of which is already put into practice by the Australian Federal Government through the Women's Budget Statement.

Charters embed human rights into the DNA of government, and provide a bedrock for additional processes such as human rights budgeting. These put people at the heart of all aspects of government decision making including allocation of public resources. Protecting people's human rights is in all our interests as Charters of Rights help to make life better for everyone. On that basis, we recommend that the Federal Government support an Australian Charter of Human Rights.

---

<sup>3</sup> Realising human rights through government budgets, Office of the United Nations High Commissioner for Human Rights, 2017

<sup>4</sup> Human Rights Budget Work: What, Why, How? Collected Briefing Papers, Scottish Human Rights Commission, September 2019

## 4. Increasing legal aid for multiple communities

### 4.1 Funding for Aboriginal Legal Services

Aboriginal Community-Controlled Organisations are an exercise in self-determination by Aboriginal and Torres Strait Islander peoples and are representative of, and accountable to, First Nations communities. We endorse the budget submission of the Change the Record Coalition and their call for greater funding of Aboriginal Community Controlled Organisations generally, and Aboriginal Legal Services specifically.

As pointed out by Change the Record in their submission, Aboriginal Legal Services hold unparalleled knowledge and expertise in representing Aboriginal and Torres Strait Islander people in a broad range of legal matters.

Due to the toxic combination of the ongoing impacts of colonisation, discriminatory policing and system racism, Aboriginal and Torres Strait Islander people remain over-represented in the criminal legal system. Aboriginal Legal Services are best placed to undertake both individual and systemic advocacy to address this grave injustice.

Despite this, base funding to Aboriginal Legal Services has gone backwards in real terms over the term of the National Legal Assistance Partnership Agreement due to a lack of proper indexation. Compounding this, short-term funding commitments make long-term service planning difficult and put programs at perpetual risk of defunding.

We reiterate the recommendations made by Change the Record that the Federal Treasury:

- Restore indexation of all service funding to Aboriginal Community Controlled Organisations to at least match CPI and increase base funding to make up for past funding shortfalls;
- At a minimum, double the Commonwealth Government's contribution to base funding to Aboriginal Legal Services; and
- Take advice from the National Family Violence Prevention and Legal Services Forum on the funding needs of its members and ensure these essential services can support everyone in need.

The Commonwealth Government must also commit to service mapping and regular surveys of unmet legal need to establish the true extent of unmet need for Aboriginal and Torres Strait Islander family violence and legal services to inform budget-setting.

### 4.2 Funding for legal aid support for temporary migrants

Temporary migrants face a range of particular legal problems, compounded by their precarious legal status. This includes contractual and other disputes with education providers engaging the *Education Services for Overseas Students Act 2000*, visa-related matters and disputes in relation to the provision of migration services by education and migration agents.

There are nearly 2 million temporary migrants in Australia,<sup>5</sup> and the Labor government has rightly recognised the contribution made by temporary migrants to the country – as taxpayers and workers in essential industries.<sup>6</sup>

Yet there are no federally-funded specialist legal services to assist temporary migrants with their unique legal problems. This represents an extraordinary gap in access to justice for a significant segment of the working population in Australia. The effects of that gap have been well documented – reports suggest that temporary migrants do not act to recover their stolen wages in part due to lack of access to legal services to advise both on employment rights and migration law.<sup>7</sup> This has flow on consequences for all workers across the economy. If we tolerate wage theft from and mistreatment of migrant workers, we compromise the working conditions of all.

The Labor government has committed to introducing co-designed visa protections for temporary migrant workers in 2024.<sup>8</sup> The Human Rights Law Centre has been at the forefront of designing these protections, that will rely on certification of employment claims by specialist employment lawyers. That certification will entitle temporary migrants to access either a protection against visa cancellation or a temporary visa.

In order for these protections to work in practice, there will need to be a significant allocation of dedicated funding to the provision of employment and immigration legal services to temporary migrants.

The reluctance of temporary migrants to approach generalist legal services is also well-documented.<sup>9</sup> As well as community legal centres, temporary migrants are far more likely to seek legal assistance through their union or union-affiliated legal services.

Accordingly, we recommend substantial, dedicated funding for legal services to temporary migrants, to be allocated across community legal centres and Migrant Workers Centres, established across the states and territories and modelled on the version now in operation in Victoria.

---

<sup>5</sup> Australian Bureau of Statistics, ‘Temporary visa holders in Australia’ <<https://www.abs.gov.au/statistics/people/people-and-communities/temporary-visa-holders-australia/latest-release>> accessed 1 February 2024.

<sup>6</sup> CEDA, ‘Andrew Giles Speech to CEDA Migration Conference’ 21 November 2023 <<https://www.ceda.com.au/NewsAndResources/News/Population/Andrew-Giles-speech-to-CEDA-s-migration-conference>> accessed 1 February 2024.

<sup>7</sup> Migrant Justice Institute, *Wage Theft in Silence: Why Migrant Workers Do Not Recover Their Unpaid Wages in Australia* October 2018 <<https://static1.squarespace.com/static/593f6d9fe4fcb5c458624206/t/62621a72d737a96241d7cdae/1650596473879/Wage%2Btheft%2Bin%2BSilence%2BReport.pdf>> accessed 1 February 2024.

<sup>8</sup> Ministers Media Centre, ‘Fixing Australia’s Broken Migration System’ 11 December 2023 <<https://ministers.dewr.gov.au/oneil/fixing-australias-broken-migration-system>> accessed 1 February 2024.

<sup>9</sup> Migrant Justice Institute, above n 10.

### 4.3 Funding for legal aid support for whistleblowers

There is a persistent power asymmetry between employers and persons who wish to speak up against wrongdoing. There is also a significant public interest in ensuring that whistleblowers are properly and appropriately advised and represented, particularly given the complexities of the relevant current legislative regimes. Accordingly, if appropriate funding were directed to providing access to advice and representation for suitable potential and actual whistleblowers, there is likely to be a substantial downstream benefit in circumstances where they receive dedicated legal aid support to navigate the complexities of the current legal landscape, to take formal action where appropriate, and to secure remedies efficiently. The Human Rights Law Centre released a report in 2023 which referred to the significant number of self-represented litigants in this area in unsuccessful cases.<sup>10</sup> This not only highlights the inaccessibility of legal representation for many whistleblowers but it indicates that the current lack of funded support is likely to place a substantial burden on the judicial system and may create inefficient, adverse, and costly outcomes for whistleblowers, which runs counter to the objects of relevant legislation.<sup>11</sup>

These concerns are likely to be ameliorated by the establishment of legal aid for whistleblowers in accordance with a suitable model to be determined by the Commonwealth Government. Notably, the review of Queensland’s public sector whistleblowing legislation, the *Public Interest Disclosure Act 2010* (Qld), by the Hon Alan Wilson KC recommended that the state Department of Justice and Attorney-General develop a program to fund a legal assistance provider (for example, Legal Aid or a community legal centre) to provide legal advice and/or representation to a person seeking a remedy under the state legislation.<sup>12</sup> We support a similar program (whether as a pilot or in a more permanent form) being introduced, and funded appropriately, at the federal level for whistleblowers in the public and private sectors. Further, a Discloser Support Scheme was previously under consideration by the Department of Premier and Cabinet in Victoria in 2018. This proposed making per-person funding of \$24,000 available for the “cost of seeking advice from a solicitor in relation to making a protected disclosure, participating in an investigation and any detrimental action proceedings”, as well as up to \$2,000 for “career transition costs and welfare costs”. While it is unclear why such a proposal did not proceed, the Human Rights Law Centre continues to strongly endorse the adoption of a similar model by the Commonwealth Government.

The suitable mode of delivery for funding in this regard should be determined following consideration of various possible approaches, noting that on one view, there may be merit in incorporating such a service into the suite of legal services provided by community legal centres supported through the National Legal Assistance Partnership (NLAP). We acknowledge the submission of Transparency International Australia to the current

---

<sup>10</sup> Human Rights Law Centre, *The Cost of Courage: Fixing Australia’s Whistleblower Protections* (August 2023), 7.

<sup>11</sup> See, for example, section 6 of the *Public Interest Disclosure Act 2013* (Cth).

<sup>12</sup> State of Queensland (Department of Justice and Attorney-General), Final Report: Review of the Public Interest Disclosure Act 2010’, (June 2023) ‘212- 213.

independent review in that respect.<sup>13</sup> In any event, appropriate funding should be introduced by the Commonwealth Government with a view to ensuring that 'so far as possible, a person is no worse off for making a protected disclosure complaint',<sup>14</sup> consistent with the objective of the proposed Victorian Disclosure Support Scheme for a legal aid funding regime in this area.

## 5. Commonwealth Anti-Slavery Commissioner

The Commonwealth Government has currently committed to providing \$8.0 million over four years from 2023-24 to establish the Anti-Slavery Commissioner.<sup>15</sup>

The Human Rights Law Centre strongly supports the Government's proposal to introduce an independent Anti-Slavery Commissioner to help oversee and improve compliance with the *Modern Slavery Act 2018* (Cth). However, we consider that the level of allocated funding needs to be significantly expanded if it is to effectively support the policy objectives of the role as set out in the *Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023* (Cth) (**the Bill**).

Our recent submission to the inquiry into the Bill recommended that the investigative and enforcement powers and functions of the Commissioner be expanded so that it can more effectively undertake its functions. If these recommendations are adopted, these additional functions will also require further resourcing.

Comparable offices have received significantly more funding. In 2024, for example, the Government committed to providing an additional \$134.1 million over four years for the office of the eSafety Commissioner,<sup>16</sup> and \$44.3 million over four years for the Office of the Australian Information Commissioner (**OAIC**) to support the Privacy Commissioner.<sup>17</sup>

Unless additional funding is provided, the Commissioner is likely to be heavily reliant on the Modern Slavery Business Engagement Unit positioned in the Attorney Generals' Department, which risks compromising the independence of the office. Most notably, the Commissioner may not be able to exercise their function of promoting compliance with the Act by Government when most of their funding is incorporated into the budget of the Attorney-General's Department.

---

<sup>13</sup> Transparency International Australia, Submission to the Independent Review of the National Legal Assistance Partnership (2020-2025), 27 October 2023.

<sup>14</sup> Victorian Government Department of Premier and Cabinet Discussion Paper: 'Designing a pilot for the Discloser Support Scheme' (October 2018), 3.

<sup>15</sup> Commonwealth of Australia, 'Budget Measures 2023-24,' <Budget Paper No. 2: Budget Measures>, 60.

<sup>16</sup> *Ibid*, 179.

<sup>17</sup> *Ibid*, 64.

With an estimated 29 million people still living in modern slavery in the Asia-Pacific region alone,<sup>18</sup> the Government must take the opportunity now to ensure that the budget for the Commissioner matches both the scope of the proposed role and the scale of addressing this enormous global problem.

## 6. Implementation of OPCAT

The Commonwealth Government ratified the United Nation’s anti-torture protocol – the Optional Protocol to the Convention Against Torture (**OPCAT**) – on 21 December 2017. At the time of ratification, the Australian government made a declaration under Article 24 of OPCAT to postpone implementation for a period of three years to enable the establishment of its National Preventive Mechanism (**NPM**). Two subsequent extensions of time were sought by the Government, and January 2023 marked the deadline for OPCAT implementation.

To date, the Government has failed to address its responsibility to share the financial costs of establishing the state and territory NPM network, thereby avoiding resourcing constraints and ensuring the effective implementation of OPCAT. This has been compounded by the reductions in funding for the Commonwealth Ombudsman over the coming years, facing budget cuts in 2022-2023 and until 2025-2026 of about 15%.

Aimed at preventing torture in places of detention, OPCAT requires the designation of independent oversight and monitoring bodies to carry out inspections of all places where people are deprived of their liberty. Alarming, little progress has been made in establishing and resourcing independent monitoring and oversight of places of detention in Queensland, New South Wales and Victoria.

The Department of Justice and Community Safety has reaffirmed the Victorian Government’s support for the principles of OPCAT, but said that additional federal government funding is required to implement OPCAT in Victoria. The position is shared in New South Wales, with the Victorian and New South Wales Attorneys-General jointly writing to the federal government on 18 October 2021, explaining that they “would be unable to implement OPCAT in the absence of an accompanying sufficient and ongoing funding commitment from the Commonwealth”.<sup>19</sup>

The funding standoff with the states must end, and the Commonwealth Government adequately and jointly fund OPCAT implementation with the states and territories.

## 7. Access to Medicare in prisons

---

<sup>18</sup> Walk Free, ‘Modern Slavery in Asia and the Pacific’ <<https://www.walkfree.org/global-slavery-index/findings/regional-findings/asia-and-the-pacific/>>.

<sup>19</sup> Parliament of Victoria, Legislative Council, Legal and Social Issues Committee, Inquiry into Victoria’s criminal justice system (Final report, 24 March 2022) 630.

People in prisons across Australia should have access to the same standards of health care that is available in the community.<sup>20</sup> Equivalency of healthcare is particularly important for Aboriginal and Torres Strait Islander people, who experience higher rates of a number of health conditions compared to non-Indigenous people. This was recognised by the Royal Commission into Aboriginal Deaths in Custody, which recommended that “health care available to persons in correctional institutions should be of an equivalent standard to that available to the general public.”<sup>21</sup>

Yet people in prison are not able to access the same standard of healthcare as they would in the community because they are not able to access Medicare or the Pharmaceutical Benefits Scheme (**PBS**). People in prison cannot access Medicare or the PBS because state governments are responsible for funding prison health services and section 19(2) of the *Health Insurance Act 1973* (Cth) prevents health services from receiving federal government funding if they receive funding from another level of government. This means that healthcare services in prisons are also often poorly integrated with community health services, creating serious reintegration risks, and too often do not meet the needs of people with disability and Aboriginal and Torres Strait Islander people in custody.

The Commonwealth Government must ensure equivalency of medical care for people in prison across the country by granting an exemption under section 19(2) of the *Health Insurance Act 1973* (Cth) to allow health care providers in prisons to claim the Medicare Benefits Schedule and PBS subsidies.

## 8. A fairer social security system

We again endorse the budget submission of the Change the Record coalition regarding important social security policy reform, in particular their calls for the abolition of all forms of compulsory income management, removal of mutual obligations, and raising the rate of Jobseeker payments above the poverty line.

We further submit that funds should be allocated in the upcoming budget for providing fair and equal access to the Age Pension for Aboriginal and Torres Strait Islander people.

Every person should have the right to age and retire with dignity. The Age Pension is Australia’s safety net for people who can no longer work, but do not have enough to support themselves. Yet the standard pension age fails to take into account the different life expectancy and ageing experiences of Aboriginal and Torres Strait Islander people. Aboriginal men have a life expectancy 8.8 years lower than non-Indigenous men, while for Aboriginal women the gap is 8.1 years.

Closing the gap in life expectancy is a priority target under the National Agreement on Closing the Gap. But currently, the Commonwealth Government is not on track to meet that target within a generation. Recent data released by the Australian Bureau of Statistics shows that the gap in life expectancy is widening, rather than narrowing.

---

<sup>20</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) UN Doc E/CN.15/2015/L.6/Rev (17 December 2015) rule 24.

<sup>21</sup> Royal Commission into Aboriginal Deaths in Custody (Final report, 1991) recommendation 150.

The gap means that Aboriginal and Torres Strait Islander people do not currently have equal access to the Age Pension. While the gap in life expectancy persists, Aboriginal and Torres Strait Islander people should be able to access the Age Pension earlier.

The Commonwealth Government should be seizing every opportunity to address the health impacts of generations of systemic discrimination, and implementing changes like this that will support Closing the Gap targets.

Allocating funds in the upcoming budget to providing fair and equal access to the Age Pension for Aboriginal and Torres Strait Islander people is one measure that could ensure Aboriginal and Torres Strait Islander people are better supported in retirement.

## 9. Funding for a Whistleblower Protection Authority

The Commonwealth Government is presently considering whether to establish a Whistleblower Protection Authority (**WPA**) or Commissioner and public consultation process is underway in relation to the *Public Interest Disclosure Act 2013* (Cth) (**PID Act**) in particular.<sup>22</sup>

The Human Rights Law Centre maintains its firm endorsement for the establishment of a standalone and independent WPA, as a priority.<sup>23</sup> The WPA should be granted appropriate functions, and most relevantly, it should be sufficiently resourced to oversee and enforce federal whistleblower protections and support whistleblowers. The Human Rights Law Centre therefore recommends that, in formulating the 2024-25 Federal Budget, the Federal Treasury have regard to:

- The importance of granting the WPA powers in relation to the protection of, and support for, whistleblowers in all sectors;
- The need for independence from present oversight or integrity bodies throughout Australia;
- The necessity of granting the WPA a sufficiently broad jurisdiction to oversee and enforce both public sector and private sector protections;
- The benefits that would be derived from a WPA that is resourced to foster greater coordination and more appropriate processes for referrals of whistleblowing matters across government;
- The dedicated staff required at the WPA to help it fulfil core functions such as:
  - the enforcement of public interest whistleblower protections in federal laws

---

<sup>22</sup> Attorney-General's Department Consultation Paper, 'Public Sector Whistleblowing Reforms – Stage 2 – reducing complexity and improving the effectiveness and accessibility of protections for whistleblowers' (November 2023).

<sup>23</sup> See generally: Human Rights Law Centre, Centre for Governance and Public Policy at Griffith University and Transparency International Australia, '*Protecting Australia's Whistleblowers: The Federal Roadmap*' (June 2023).

- b) the provision of support, information and assistance to current, former, and prospective whistleblowers; and
- to investigate and provide alternative dispute resolution services, and other recommendations and remedies, in response to alleged detrimental treatment of whistleblowers;
- the provision of support to other federal integrity and regulatory agencies, and relevant state-based authorities, in the receipt, assessment, referral, coordination and effective management of whistleblowing disclosures.

The Human Rights Law Centre otherwise endorses the Draft WPA Design Principles developed by the Human Rights Law Centre, Transparency International Australia, and Griffith University, attached to the submission of Transparency International Australia to PID Act Review (**Draft Design Principles**),<sup>24</sup> and recommends that Treasury accordingly consider appropriate budgetary allocations to reflect the need for an appropriately resourced independent WPA in that regard.

---

<sup>24</sup> Transparency International Australia, Submission to Attorney-General's Department: 'Ensuring Australian Whistleblowing Laws Work: Draft Design Principles for a Whistleblower Protection Authority' (January 2024), Attachment 1.