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Australian Human Rights Commission
GPO Box 5218
SYDNEY NSW 2001

To the Australian Human Rights Commission

Submission to *Free and Equal: An Australian conversation on human rights*

The McCabe Centre for Law and Cancer (**McCabe Centre**) is working for a world free from preventable cancers and in which all people affected by cancer have equitable access to safe, effective and affordable cancer treatment and care. The McCabe Centre is a Melbourne-based joint initiative of Cancer Council Victoria, the Union for International Cancer Control and Cancer Council Australia. The McCabe Centre conducts world-leading legal research, policy development, and capacity building programs to promote the use of law as an effective and essential tool in the prevention and control of cancer in Australia and overseas.

As an organisation dedicated to reducing the impact of cancer on the community, the McCabe Centre holds human rights as one of its core values: We believe that the human rights of all people should be respected, protected and fulfilled, and that laws and policies should be non-discriminatory. Advancing the right to the enjoyment of the highest attainable standard of physical and mental health ('**right to health**')¹ is central to the McCabe Centre's work. However, attaining the right to health is essential to and dependent upon, the realisation of other fundamental human rights.

The McCabe Centre therefore supports the Commission's national conversation on an effective system of human rights protection for 21st Century Australia and welcomes the opportunity to discuss improvements on protections for human rights in Australia.

Scope of this submission

This submission focuses on consultation question 1: **What human rights matter to you?**

Advancing all human rights is imperative to addressing the underlying social determinants of health that lead to the unequal burden of cancer in Australia. Acknowledging the importance of and actively promoting all human rights, including economic, social and cultural rights, is critical to improving the lives and wellbeing of all Australians affected by cancer and to ensuring a future that is free from preventable cancers. The progressive realisation of economic, social and cultural rights — including, but not limited to the right to health — is just as important as the advancement of civil and political rights, indeed they are essential to this. Any national human rights agenda should therefore consider and promote all civil, political, economic, social and cultural rights.

We have set out our views in further detail below and in **Table 1**, which provides some examples of human rights that are important to and engaged in the prevention and control of cancer.

Our views relate to the human rights of natural persons and do not relate to the rights of legal persons or corporate entities. We do not consider that human rights apply or should apply to corporate entities. We do, however, consider that governments have a responsibility to create a regulatory environment whereby corporate entities respect and protect human rights.

¹ *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) art 12 ('ICESCR').

Human rights and the unequal burden of cancer

Cancer causes a major disease burden in Australia, one that has a significant social and economic impact on individuals, families and communities.² Over 1 million Australians are either living with or have lived with cancer. Cancer accounts for about 3 out of every 10 deaths in Australia.³ In 2019, approximately 396 people will be diagnosed with cancer every day, and approximately 137 people every day will lose their lives because of it.⁴ The number of cancer cases is expected to increase, as Australia's population grows and ages.⁵

The burden of cancer is not evenly spread in Australia. People experiencing socio-economic disadvantage, Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse communities, people with a disability, and those who live in regional and rural areas of Australia tend to have higher rates of cancer and face disadvantage in cancer outcomes.⁶ There is a need to ensure that all those affected by cancer can access suitable treatment services and to reduce these health inequities. Additionally, as the number of cancer survivors continues to grow,⁷ equitable access to ongoing support services is essential.

Preventing cancer is essential to reducing the burden of cancer. All individuals living in Australia should be empowered to lead healthier lifestyles to help reduce their cancer risk, and have access to credible information, programs and services that can help them do this. To accelerate this, governments within Australia should enact preventative public health measures and promotion strategies that reduce exposure to modifiable cancer risks factors, such as tobacco and alcohol consumption, overweight and obesity, and physical inactivity,⁸ to help ensure that each person can achieve their highest attainable standard of health — a commitment Australia has made under international human rights treaties and other agreements, including the 2030 Agenda for Sustainable Development.⁹

All aspects of cancer prevention and control¹⁰ are matters of human rights, as advancing human rights is imperative to addressing the underlying social determinants of health that lead to the health inequities we see reflected in the unequal burden of cancer in Australia, for instance:

- Cancer outcomes, particularly cancer survival, are generally poorer for Aboriginal and Torres Strait Islander people than non-Aboriginal and Torres Strait Islander people. This is influenced by social determinants of health including lower education and employment rates, higher smoking rates and poor access to health services, with 19% of Aboriginal and Torres Strait Islander people living in remote and very remote areas of Australia where access to services is more difficult, compared to 1% of non-Aboriginal and Torres Strait Islander Australians.¹¹ In 2014–2015 the proportion of Aboriginal and Torres Strait Islander children aged 0–14 years living in households with daily smokers, and therefore exposed to second-hand smoke, was 57%,¹² and smoking rates of Aboriginal and Torres Strait Islander people aged 18 years and over was more than double the smoking rates of non-

² Australian Institute of Health and Welfare, *Cancer in Australia 2019* (Cancer Series No 119, 21 March July 2019), 2 ('*Cancer in Australia 2019*').

³ *Ibid* v, 2.

⁴ *Ibid* 2.

⁵ See, e.g., Australian Institute of Health and Welfare, *Cancer in Australia 2019: In Brief* (Cancer Series No 122, 21 March July 2019); Cancer Council Victoria, 'What we do' (Web page, accessed 30 July 2019) <<https://www.cancervic.org.au/about/strategic-plan>>.

⁶ *Cancer in Australia 2019* (n 2), 105, 109, 111; Cancer Institute New South Wales, 'Multicultural communities' (Web page, 20 June 2019, accessed 30 July 2019) <<https://www.cancer.nsw.gov.au/cancer-plan/focus-areas/cald-communities>>.

⁷ See, e.g., Cancer Council Victoria (n 5).

⁸ Cancer Council Australia, 'Risk factors' (Web Page, 1 November 2017) <<https://www.cancer.org.au/policy-and-advocacy/prevention-policy/risk-factors/>>.

⁹ See, e.g., ICESCR (n 1) art 12; *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 24; *Convention on the Rights of Persons with Disabilities*, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008) art 25; *Convention on the Elimination of All Forms of Discrimination Against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981) art 12; *Constitution of the World Health Organization*, opened for signature 22 July 1946, 14 UNTS 185 (entered into force 7 April 1948); *Transforming Our World: The 2030 Agenda for Sustainable Development*, GA Res 70/1, UN GAOR, 70th sess, Agenda Items 15 and 116, UN Doc A/RES/70/1 (21 October 2015) ('*2030 Agenda for Sustainable Development*').

¹⁰ We use the word 'control' to cover research and information, screening, detection, diagnosis, treatment and care as per *Cancer Prevention and Control in the Context of an Integrated Approach*: WHA Res 70.12, 70th sess, 10th plen mtg, Agenda Item 15.6, WHO Doc A/70/VR/10 (31 May 2017).

¹¹ *Cancer in Australia 2019* (n 2), 105.

¹² Australian Government, 'Combined Fifth and Sixth Periodic Reports Submitted by Australia under Article 44 of the Convention, Due in 2018' Submission to the Committee on the Rights of the Child, 15 January 2018, UN Doc CRC/C/AUS/5-6, [27].

Aboriginal or Torres Strait Islander people aged 18 years and over.¹³ During 2010–2014, the 5-year observed survival rate for all cancers combined was 48% amongst Aboriginal and Torres Strait Islander communities compared to about 59% for non-Aboriginal and Torres Strait Islander Australians.¹⁴

- People living in the most socioeconomically disadvantaged areas of Australia have higher incidence rates for all cancers compared to those living in the least socioeconomically disadvantaged areas for the period 2010–2014. Survival rates also decrease as socioeconomic disadvantage increases: Between 2012–2016, the age-standardised mortality rate for all cancers combined was highest among those living in the lowest socioeconomic areas (187 deaths per 100,000 persons) and lowest among those living in the highest socioeconomic areas (136 per 100,000).¹⁵
- People living in remote areas of Australia often experience disadvantage in accessing primary healthcare services, educational and employment opportunities and income. They are also more likely to have higher rates of cancer risk factors including smoking and harmful use of alcohol. Between 2010–2014, these factors have contributed to cancer survival rates generally decreasing as remoteness increases, and very remote areas having the highest rate of cancer-related deaths.¹⁶
- Some culturally and linguistically diverse communities experience a higher incidence of cancer than the general population. This is related to a higher prevalence of cancer-related risk factors (such as tobacco and alcohol use), lower use of screening or cancer support services and varying levels of health literacy. For example, in New South Wales, rates of smoking amongst Chinese, Vietnamese and Lebanese born men are much higher than that of the State’s population more generally.¹⁷
- Lesbian, gay, bisexual, transgender and intersex (‘LGBTI’) people experience a disproportionate cancer burden and unique challenges that must be addressed. Members of LGBTI communities represent approximately 5% of total cancer patients in Australia and are at a higher risk of developing certain types of cancers, including breast, cervical, non-Hodgkin’s lymphoma and anal cancer.¹⁸ LGBTI communities also have a higher prevalence of tobacco use, with smoking rates almost double the national smoking rates. Tobacco use is a leading cause of death amongst LGBTI communities.¹⁹ A lack of support services that accommodate the specific needs of LGBTI people and a fear of discrimination has led LGBTI communities being described as a ‘hidden population’ when it comes to cancer care.²⁰

Improving the health and wellbeing of all people living in Australia by promoting their human rights must therefore be considered by any national human rights framework.

Additionally, in addressing the cancer burden in Australia, governments must collect and utilise quality, disaggregated data as foundational to any human rights based response to ensure that health policies and programmes prioritise the needs of those most disadvantaged to improve equity. This would support Australia’s commitment to leave no-one behind which is enshrined in the 2030 Agenda for Sustainable Development.²¹ The successful promotion of human rights in Australia to prevent and control cancer will also be dependent on an effective whole-of-government and whole-of-society response, and educational campaigns of both the state and its citizens.

¹³ Australian Bureau of Statistics, *Aboriginal and Torres Strait Islander Peoples: Smoking Trends, Australia, to 2014-15* (Catalogue No 4737, 19 October 2017).

¹⁴ *Cancer in Australia 2019*, (n 2) 106.

¹⁵ *Ibid* 112.

¹⁶ *Ibid* 108–10.

¹⁷ See, e.g., Cancer Institute New South Wales (n 6).

¹⁸ Annie Miller, ‘Cancer: It’s out of the closet’, *Cancer Council Conversations Blog* (Cancer Council New South Wales) (Blog Post, 18 February 2016) <<https://www.cancercouncil.com.au/blog/cancer-its-out-of-the-closet/>>.

¹⁹ Australian Council on Smoking and Health, *LGBTI People* (Webpage, accessed 30 July 2019) <<https://www.acosh.org/who-we-help/lgbti/>>

²⁰ See, e.g., Miller (n 18); Breast Cancer Network Australia, ‘Project Explores LGBTI experience of cancer care’, *BCNA News* (19 February 2018) (Web Page) <<https://www.bcna.org.au/news/2018/02/project-explores-lgbti-experience-of-cancer-care/>>.

²¹ *2030 Agenda for Sustainable Development* (n 9).

Health and human rights: All human rights matter

Human rights are interdependent, interrelated, and indivisible, encompassing civil, political, economic, social and cultural rights.²² The denial of economic, social and cultural rights can affect large numbers of people and can lead to the denial of civil and political rights, and vice versa. For example, a lack of education and work or poor health can make it harder for individuals to actively exercise their freedom of expression.²³ Similarly, lack of access to adequate food can result in malnutrition which has a clear impact on the right to health.²⁴ All human rights are therefore important and should be protected and advanced in Australia, due to their indivisibility.

As noted by the Commission, there is a general lack of federal constitutional protection of human rights in Australia.²⁵ Moreover, neither the Commonwealth nor States and Territories have other legislation that systematically implements international human rights treaties. While the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) requires all bills and legislative instruments, including the budget, to be examined by the Parliamentary Joint Committee on Human Rights ('PJCHR') for human rights impact through preparation of a Statement of Compatibility, such scrutiny only applies to new bills and legislative instruments. Additionally, concerns have been raised that the PJCHR's recommendations are not fully considered by legislators.²⁶

Although the concept that human rights are interdependent, interrelated, and indivisible is often repeated, in practice human rights have received differential treatment in Australia.²⁷ Economic, social and cultural rights — those human rights relating to the workplace, social security, family life, participation in cultural life, and access to housing, food, water, health and education,²⁸ and inextricably linked to the social determinants of health — have historically not received as much protection as civil and political rights in Australia.²⁹ This has been explored in detail elsewhere, so we briefly note the following examples which illustrate this:

- The few rights which are expressly or impliedly protected under the *Australian Constitution* are limited to civil and political rights, such as the right to freedom of and from religion, and the implied right to freedom of political communication.³⁰
- Despite ratifying the *International Covenant on Economic, Social and Cultural Rights*,³¹ ('ICESCR') Australia has not implemented the Covenant into domestic law as constitutional rights at either the federal or state level, rendering the provisions of the Covenant non-justiciable in domestic courts.³²

Successive Australian Governments have chosen to promote economic, social and cultural rights indirectly through policies, programmes and legislation, and through less formal processes such as inquiry, conciliation and reporting. This contrasts with the treatment of civil and political rights which are usually legally enforceable and therefore subject to judicial processes and remedies.³³ While we do not wish to diminish the positive impact that some of these indirect measures may have had in promoting economic, social and cultural rights, we note that the United Nations Committee on Economic, Social and Cultural Rights ('Committee') has affirmed that aspects

²² See World Conference on Human Rights, *Vienna Declaration and Programme of Action*, UN Doc A/CONF.157/23 (12 July 1993).

²³ See, e.g., Office of the United Nations High Commissioner for Human Rights, *Frequently Asked Questions on Economic, Social and Cultural Rights* (Fact Sheet No 33, December 2008), 4–5 ('UNHCHR Fact Sheet No 33').

²⁴ *Ibid.*

²⁵ Australian Human Rights Commission, *Free and Equal: An Australian Conversation on Human Rights* (Issues Paper, April 2019), 19.

²⁶ See, e.g., Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Fifth Periodic Report of Australia*, UN ESCOR, UN Doc E/C.12/AUS/CO/5 (11 July 2017).

²⁷ See, e.g., Andrew Byrnes, 'Second Class Rights Yet Again? Economic, Social and Cultural Rights in the Report of the National Human Rights Consultation' (2010) 33(1) *University of New South Wales Law Journal*, 193–238.

²⁸ *UNHCHR Fact Sheet No 33* (n 23).

²⁹ For more information see, eg, Byrnes (n 27); Jackbeth K Mapulanga-Hulston and Paul D Harpur, 'Examining Australia's Compliance to the International Covenant on Economic, Social and Cultural Rights: Problems and Potential' (2009) 10(1) *Asia-Pacific Journal on Human Rights and the Law*, 48–55; Russell Solomon, 'Bounded Political Contestation: The Domestic Translation of International Health and Housing Rights in Australia' (2017) 52(3) *Australian Journal of Political Science*, 367–82; Dianne Otto and David Wiseman, 'In Search of "Effective Remedies": Applying the International Covenant on Economic, Social and Cultural Right to Australia' (2001) 7(1), *Australian Journal of Human Rights*, 5–45.

³⁰ *Australian Constitution* s 116; *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520.

³¹ ICESCR (n 1).

³² The Joint Parliamentary Committee on Human Rights, established under the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth), is required to consider the ICESCR in examining all federal bills and legislative instruments for compatibility with human rights.

³³ Mapulanga-Hulston and Harpur (n 29) 55.

of all rights in the ICESCR are capable of judicial enforcement.³⁴ The Committee has also stated that placing economic, social and cultural rights beyond the reach of the courts would be incompatible with the principle that human rights are indivisible and interdependent,³⁵ and that whenever an ICESCR right ‘cannot be made fully effective without some role for the judiciary, judicial remedies are necessary’.³⁶ In its most recent review of Australia, the Committee recommended Australia take ‘immediate steps to incorporate fully the Covenant provisions into [Australia’s] legal order so as to render them justiciable in domestic courts’.³⁷

- Australia has not ratified the *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, establishing complaint and inquiry mechanisms,³⁸ but has ratified the *Optional Protocol to the International Covenant on Civil and Political Rights* establishing an individual complaint mechanism,³⁹ and the *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty*.⁴⁰
- State and Territory governments are largely responsible for delivering economic, social and cultural rights. However, current State and Territory legislative human rights charters — that of the Australian Capital Territory, Victoria and Queensland — primarily protect civil and political rights and contain very few economic, social and cultural rights.⁴¹

Of these charters, only Queensland’s Human Rights Act expressly considers the right to health, albeit in a limited way, by protecting the right to health services.⁴² However, the right to health envisaged under the ICESCR extends beyond the right to access and receive healthcare to include (amongst other things) the right to prevention of disease, treatment and control of diseases, the provision of health-related education and information, rights related to the underlying determinants of health including the right to safe drinking water and food; and the right to healthy working and environmental conditions.⁴³ The *Australian Charter of Healthcare Rights* is similarly limited.⁴⁴

- Some aspects (or sub-rights) of economic, social and cultural rights enshrined in international human rights law have been legislatively enacted via a patchwork of laws. Anti-discrimination laws have been adopted across all jurisdictions on certain grounds in prescribed areas of activities by government and non-government entities.⁴⁵ However, while clearly very important, these anti-discrimination protections do not necessarily ensure the full realisation of rights guaranteed under the ICESCR.⁴⁶

There is protection of some work rights through industrial relations laws.⁴⁷ Additionally, there are some laws that provide a range of social security benefits for certain groups of people but fall short of providing an express right to an adequate standard of living.⁴⁸ Federal laws establishing Medicare and the Pharmaceutical Benefits Scheme, as well as tobacco and alcohol control laws, address some aspects of the right to health — despite it not

³⁴ Committee on Economic, Social, and Cultural Rights, *General Comment 9: The Domestic Application of the Covenant*, UN ESCOR, 19th sess, UN Doc E/C.12/1998/24 (3 December 1998) (*‘General Comment 9’*); Committee on Economic, Social and Cultural Rights, *General Comment 3: The Nature of States Parties’ Obligations*, UN ESCOR, 5th sess, UN Doc E/1991/23 (14 December 1990).

³⁵ *General Comment 9* (n 34) para 10.

³⁶ *Ibid* para 9.

³⁷ Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Fifth Periodic Report of Australia*, UN ESCOR, UN Doc E/C.12/AUS/CO/5 (11 July 2017), para 6.

³⁸ *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, opened for signature 10 December 2008, UN Doc A/RES/63/1177 (entered into force 5 May 2013).

³⁹ *Optional Protocol to the International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

⁴⁰ *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty*, opened for signature 15 December 1989, 1642 UNTS 414 (entered into force 11 July 1991).

⁴¹ *Human Rights Act 2004* (ACT); *Charter of Human Rights and Responsibilities Act 2006* (Vic); *Human Rights Act 2019* (Qld).

⁴² *Human Rights Act 2019* (Qld) s 36.

⁴³ Office of the United Nations High Commissioner for Human Rights, *The Right to Health* (Fact Sheet No 31, June 2008), 3–4.

⁴⁴ Australian Commission on Safety and Quality in Healthcare, *Australian Charter of Healthcare Rights* (2nd ed, 2019).

⁴⁵ *Age Discrimination Act 2004* (Cth); *Disability Discrimination Act 1992* (Cth); *Racial Discrimination Act 1975* (Cth); *Sex Discrimination Act 1984* (Cth); *Discrimination Act 1991* (ACT); *Anti-Discrimination Act 1977* (NSW); *Anti-Discrimination Act 1992* (NT); *Anti-Discrimination Act 1991* (Qld); *Equal Opportunity Act 1984* (SA); *Anti-discrimination Act 1998* (Tas); *Equal Opportunity Act 2010* (Vic); *Equal Opportunity Act 1984* (WA).

⁴⁶ Otto and Wiseman (n 29) 34.

⁴⁷ See, e.g., *Fair Work Act 2009* (Cth).

⁴⁸ See, e.g., *Social Security Act 1991* (Cth). See also Otto and Wiseman (n 29) 37.

being enshrined in legislation.⁴⁹ However, persistent forms of economic, social and cultural disadvantage in Australia⁵⁰ suggests that the sum of these sub-rights do not constitute or fulfil the comprehensive regime of rights provided under instruments such as the ICESCR.⁵¹

- As the Commission is aware, unlike the *International Covenant on Civil and Political Rights*,⁵² the ICESCR is not included as a Schedule to the *Australian Human Rights Commission Act 1986* (Cth) or designated a 'relevant international instrument' under the Act.⁵³ The economic, social and cultural rights under the ICESCR are therefore not considered 'human rights' for the purposes of the Act. The effect of this exclusion for the Australian public is that rights under the ICESCR cannot be the subject of a complaint or self-initiated inquiry or examination of enactment conducted by the Commission, except to the extent those rights are incorporated into treaties within the Commission's statutory mandate.⁵⁴ Additionally, the Commission's other functions including human rights promotion and research are similarly limited for ICESCR rights.⁵⁵

Progressively advancing the protection of economic, social and cultural rights is essential to the strengthening of all recognised human rights, due to their interrelated and indivisible nature.⁵⁶ Failure to do so leaves individuals and groups vulnerable to human rights violations, with limited means of redress.

Examples of the human rights engaged in the prevention and control of cancer are highlighted in **Table 1** below. This demonstrates that a national human rights framework should comprehensively ensure that all human rights are respected, protected and fulfilled if it is to be valuable and effective. Any limitations on these rights must be for a legitimate purpose, proportional, least restrictive, of limited duration and subject to review.

⁴⁹ *Health Insurance Act 1973* (Cth); *National Health Act 1953* (Cth); *Tobacco Advertising Prohibition Act 1992* (Cth); *Tobacco Act 1987* (Vic); *Liquor Act 2007* (NSW) Pt 3.

⁵⁰ See, e.g., Australian NGO Coalition Submission 'Review of Australia Fifth Periodic Report under the *International Covenant on Economic, Social and Cultural Rights*', Submission to the United Nations Committee on Economic, Social and Cultural Rights, May 2017; Committee on Economic, Social and Cultural Rights, *Concluding observations on the fifth periodic report of Australia*, UN ESCOR, UN Doc E/C.12/AUS/CO/5 (11 July 2017).

⁵¹ *Otto and Wiseman* (n 29) 37.

⁵² *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

⁵³ *Australian Human Rights Commission Act 1986* (Cth) s 3 ('AHC Act').

⁵⁴ *Ibid.* See also, Australian Human Rights Commission, *Review of Australia's Fourth Periodic Report on the Implementation of the International Covenant on Economic, Social and Cultural Rights* (Submission to the United Nations Committee on Economic Social and Cultural Rights, April 2009), 6–7.

⁵⁵ *AHC Act* (n 53).

⁵⁶ See, e.g., *UNHCHR Fact Sheet No 33* (n 23).

Table 1: Human rights and the prevention and control of cancer

Human rights that are important to and engaged in the prevention and control of cancer include:

Issue	Examples of relevant human rights
All persons have a right to the highest attainable standard of health. This includes access to health services including preventative measures such as screening and access to a healthy food environment.	<ul style="list-style-type: none"> • Right to health • Right to adequate standard of living, including food • Right to participate in and benefit from scientific progress and its applications
All persons have a right to access necessary services to recover from their illness and be free from interference (or non-consensual treatment). This includes the right to timely and appropriate health care that meets the requirement of availability, accessibility, acceptability, and quality. ⁵⁷	<ul style="list-style-type: none"> • Right to health • Right to life • Right to equality and non-discrimination • Rights of people with disability • Rights of the child to special protection • Freedom from torture and ill-treatment • Freedoms of association, assembly and movement
All persons have the right to life, including the prevention of threats to the enjoyment of the right to life with dignity. The right to life with dignity interrelates with the right of all persons to the highest attainable standard of health. The prevention of illnesses such as cancer, is therefore critical to achievement of the right to life and right to health.	<ul style="list-style-type: none"> • Right to life • Right to health
All persons have the right to credible information to enable them to make informed decisions about their health, including through effective labelling of tobacco, alcohol and unhealthy diet products associated with cancer.	<ul style="list-style-type: none"> • Right to information • Right to health
All persons should be protected from exposure to products that contribute to cancer, including tobacco, alcohol and unhealthy diets, and have access to healthy, safe and nutritious food, clean air and water.	<ul style="list-style-type: none"> • Right to health • Right to life • Right to information • Right to adequate food • Right to clean water
People affected by cancer (including carers) may face discrimination at work or have difficulty retaining and/or obtaining work.	<ul style="list-style-type: none"> • Right of equality and non-discrimination • Right to work and to good working conditions • Right to health (i.e. right to highest attainable standard of mental health which may be adversely affected if denied working opportunities) • Right to privacy
Aboriginal and Torres Strait Islander communities, Australians living in rural and remote communities, and individuals from other disadvantaged groups have difficulty accessing necessary health services, higher rates of cancer including exposure to risk factors, and have poorer health outcomes. Vulnerable sections of the Australian community must, in particular, be protected from exposure to cancer risk factors.	<ul style="list-style-type: none"> • Right to self-determination (for Aboriginal and Torres Strait Islander people) • Right to adequate standard of living including medical care and social services • Right to health • Right to equality • Rights of people with disability • Rights of the child to special protection • Right to participate in and benefit from scientific progress and its applications
Children have a right to be protected from exposure to cancer risk factors such as tobacco and alcohol use and consumption of unhealthy foods which contributes to overweight and obesity. For example, the marketing of sugary drinks or unhealthy food to children may increase their risk of overweight and obesity and therefore increase their risk of developing cancer over their lifetime.	<ul style="list-style-type: none"> • Right to life • Right to health • Rights of the child to special protection • Right to information • Equal enjoyment of human rights • Protection from economic exploitation

⁵⁷ Committee on Economic, Social and Cultural Rights, *General Comment No 14 (2000): The Right to the Highest Attainable Standard of Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights)*, UN ESCOR, 22nd sess, Agenda Item 3, UN Doc E/C.12/2000/4 (11 August 2000).

Conclusion

We are pleased to contribute to the national conversation on an effective system of human rights protection for a 21st Century Australia. Advancing all human rights— including economic, social and cultural rights— is essential to reducing the burden of cancer and improving the health and wellbeing of every individual in Australia. Development and implementation of any new national human rights framework should include opportunities such as this to meaningfully involve non-state actors such as civil society organisations and individuals, as well as government, to ensure a participatory approach to the protection of human rights.

We would be happy to provide further information or to participate in future activities related to this important discussion, please do not hesitate to contact us.



Hayley Jones

Acting Director

McCabe Centre for Law and Cancer

615 St Kilda Road

Melbourne VIC 3004

Hayley.jones@mccabecentre.org

T: +61 3 9514 6519