



AASW

Australian Association
of Social Workers

Climate Change Amendment Bill

Environment and Communications
Legislation Committee

November 2023

About the Australian Association of Social Workers

The Australian Association of Social Workers (AASW) is the national professional body representing more than 16,000 social workers throughout Australia. The AASW works to promote the profession of social work including setting the benchmark for professional education and practice in social work, while also advocating on matters of human rights to advance social justice.

Acknowledgements

This submission has been developed in consultation with our members who are working across Australia in all sectors and service systems. Regardless of their field of practice, social workers encounter people living with the consequences of the climate emergency and observe how it interacts with their underlying circumstances and vulnerabilities.

The Australian Association of Social Workers respectfully acknowledges the traditional owners and on-going custodians of the lands on which our members work. We recognise the importance of traditional ways of being, knowing and caring for country; and we pay our respects to their Elders past and present, their ancestors and their families.

For further information or questions relating to this submission, please contact:

Sue O'Sullivan
Manager, Social Policy and Advocacy

Angela Scarfe
Senior Policy Advisor

Executive Summary

The United Nations (UN) formally identified climate change as a challenge to the human rights of children in 2021.¹ This challenge can be understood to operate in direct and indirect means. It represents a breach of the right of current and future children and young people to a clean, healthy and sustainable environment. It has an indirect dimension as well: a clean, healthy and sustainable environment is a necessary condition for current and future children and young people to enjoy the other rights as well.

Recommendations

The AASW recommends:

- That the Climate Change Amendment (Duty of Care and Intergenerational Climate Equity) Bill 2023 be passed.

¹ (Gunasiri, 2023)

The climate emergency is a social justice issue.

The social work profession in Australia is based on an abiding respect for the dignity of all persons, and on the principles of social justice and professional integrity. The AASW's vision is one of 'Wellbeing and Social Justice for All'. To fulfill this vision, the AASW works toward a society in which all people can thrive, develop their potential, contribute to their community, and pursue lives of meaning and purpose. In such a society, all people enjoy the fulfillment of all their rights under the International Bill of Rights (IBR).²

Having access to a clean, healthy and sustainable environment has been acknowledged to be a fundamental human right through a resolution by the United Nations General Assembly in July 2022. Australia is one of 161 states which voted in favour of this resolution. Despite this vote, governments have so far failed to take the action necessary to avoid a level of planetary heating that the UN describes as 'hellish'.³ As the effects of the climate emergency are worsening, Australia joins the many nations whose responses are failing to fulfil this human right.

Social workers work with people who already experience some of the most significant and sustained disadvantage due to government systems and structures which do not uphold the economic, social and cultural rights of all. As they provide services within and to communities, social workers see how the current and imminent impacts of the climate crisis involve large scale economic, social, cultural and environmental costs, meaning that this is a core issue for all social workers, regardless of their field of practice.

Although it is affecting the entire population, the harm caused by the climate emergency is falling most heavily on the people who are already vulnerable, marginalized or experiencing discrimination. In their work with people affected by climate related events, social workers observe how the climate crisis is exacerbating existing inequalities. For the AASW the climate emergency is a social justice issue.⁴

As social workers we will always advocate for socially just, inclusive policies, and this includes access to a safe, clean, healthy and sustainable environment for all. We have called for climate action on behalf of marginalized and vulnerable people repeatedly.⁵ As the effects of the climate emergency become more destructive and create increasing amounts of harm, we can see that the people who will be the most severely affected will be the current generation of children, and the generations who are not yet born. There is an intergenerational dimension to the injustice of the climate emergency. In this context, we believe that our advocacy must be directed to future

² By this term we include: The International Bill of Rights (encompassing: Universal Declaration of Human Rights (UNHCR); International Covenant on Economic, Social and Cultural Rights (ICESCR); International Covenant on Civil and Political Rights (ICCPR); First Optional Protocol to ICCPR; Second Optional Protocol to ICCPR); Convention on Status Relating to Refugees; Convention on the Rights of the Child; Declaration on the Rights of Indigenous Peoples; Convention on the Rights of Peoples with a Disability; Convention on the Elimination of All Forms of Discrimination; Convention on the Rights of Older Peoples; and, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Particularly Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

³ (Carrington, 2023)

⁴ (Australian Association of Social Workers, 2019) (Australian Association of Social Workers, 2022)

⁵ (Australian Association of Social Workers, 2022) (Australian Association of Social Workers, 2022) (Australian Association of Social Workers, 2019)

peoples, as well as people who are alive today. We therefore welcome the opportunity in this submission to address the specific situation of current and future children and young people.

Our submission

1. Children have a right to a clean, healthy and sustainable environment.

Australia ratified the United Nations (UN) Convention on the Rights of the Child (CRC) in 1990. Like all human rights, the rights in that convention are indivisible and interdependent.⁶ In its Comment Number 26, the UN has identified all the ways in which the clauses in that convention confer on children the right to a healthy, clean and sustainable environment.⁷ They commence with Article 3 of that Convention, which cites that the best interests of children should be the primary consideration in all decisions affecting them.⁸ The implication of Article 3 in the context of the Climate Emergency are clear: because current and future children will be affected by decisions about the environment. This includes decisions about further development of the coal, oil and gas industries. These decisions should be guided by a consideration of childrens' best interests. Clearly it is in the best interests of children that the environment be clean and sustainable. Indeed, the UN identifies that clean air, a stable environment, healthy biodiverse ecosystems, and safe and sufficient food and water are the substantive elements of that right.⁹

Having ratified that convention, Australia is under an obligation to respect, protect and defend children's rights, through positive actions. The UN specifies that action is needed immediately and includes:

- phasing out oil, coal and gas, in an equitable manner,
- ensuring a fair and just energy transition,
- conserving, protecting and restoring biodiversity.

Their comment continues that Australia must take deliberate steps towards incorporating children's right to a healthy clean and stable environment into legislation, policies and evidence-based action plans. This includes duties to

- Conduct environmental impact statements¹⁰
- Regulate business activities to protect childrens' rights¹¹

It is noteworthy that the UN's Comment No 26 also calls for business to take its own actions to limit its activities as part of their duty towards childrens' environmental rights. So far, the fossil fuel industries operating in Australian territories, atmosphere and waters has failed to limit their actions to protect the rights of children.

It is clear that the decisions that the Australian government had made before 15 December 2020, concerning these industries, had been made without reference to the best interests of current and future children and young people. The Minister for the Environment made this clear when she

⁶ (United Nations Committee on the Rights of the Child, 2023)

⁷ *ibid*

⁸ *ibid*

⁹ *ibid*

¹⁰ *Ibid*

¹¹ *ibid*

denied that she owed a duty of care to children and young people, relying on this to explain why she failed to protect Australia's current and future children and young people from the environmental damage that these industries are causing.¹²

2. A clean and sustainable environment is necessary for other rights.

As well as the rights in the CRC which directly relate to the environment, there is a second category of children's rights that are affected by the climate emergency. These are the many rights which depend for their fulfilment on a healthy environment. In its General Comment 26, the UN has pointed out that a clean, healthy and sustainable environment is necessary for children to enjoy *all* the other rights to which they are entitled under the Convention.¹³ Rather than discuss them all, this submission will concentrate on the right to the highest attainable standard of health.

The right to health has particular significance for social workers, because of the way that 'health' is understood. According to the WHO, 'health' is:

... a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community (WHO 2001a, p. 1).

The WHO document continues that this is a positive right, meaning that governments have a corresponding responsibility to enact the policies and provide the health services that fulfill this positive right. They have pointed out the importance of multiple, interacting factors in either promoting or obstructing the state of wellbeing in which everyone can realise their abilities and contribute to their community that the definition describes. These can be biological characteristics of the individual concerned, but they can also be external factors in the person's physical and social environment. Evidence indicates that these external factors are critically important in either promoting or hindering health.¹⁴

Research demonstrates that the climate emergency is one of those influences, and is already having a negative effect on the mental health of Australians.¹⁵ Like other forms of mental ill health, the effects can be placed on a spectrum of severity which ranges from mild and transient to severe. For the purposes of this submission, it is more helpful to categorise these as either direct or indirect consequences.¹⁶ While the direct consequences are clearly observable in people who have lived through acute, climate related events, indirect consequences are no less significant.¹⁷

The indirect consequences become manifest through our social, economic and cultural systems. While they are more difficult to quantify and to attribute back to climate change, their impact on people's lives is experienced in many significant ways, including in our levels of mental health.¹⁸

¹² (Environmental Law Australia, 2023)

¹³ (United Nations Committee on the Rights of the Child, 2023)

¹⁴ (Australian Institute of Health and Welfare, 2022)

¹⁵ (Gergis J, 2023) (Gunasiri, 2023)

¹⁶ (Doctors for the Environment, Australia, 2021)

¹⁷ *ibid*

¹⁸ (Doctors for the Environment, Australia, 2021) (Gergis J, 2023)

For the purposes of this submission, there are two important aspects of this research. The first is that children and adolescents have been shown to be particularly likely to experience these impacts in the form of poor mental health. 76% of young people report that they are concerned about climate change,¹⁹ and 67% say that climate related concerns are having an impact on their mental health.²⁰ A higher proportion of young women than young men report that this is affecting them.²¹

The second interesting point relevant to this submission concerns people's responses to the situation. People experiencing the mental health effects of the climate emergency are not passive nor resigned to worsening mental health. They are taking positive action to improve their mental health: they report a variety of coping strategies; and adopt 'pro-environmental behaviour'.²² Nevertheless, evaluations demonstrate mixed effectiveness of these individualised responses.²³ This is partly because people also report that their mental distress at the climate emergency is directly linked to government inaction.

*"I have two young boys who spend most weekends up on my farm. Now there are places where they don't like going anymore as the destruction is too much for them to cope with. It is visible, the distress they are experiencing, and things are going to get worse not better. What sort of world have we handed to them and still the government backs the fossil fuel industry."*²⁴

Again, this applies more strongly to young people than to older people: 61% of young people believe that governments are not doing enough to protect them, the planet and future generations.²⁵ Further, 77% of young people in Australia believe that seeing the government take stronger action on climate change would be helpful or very helpful to people experiencing climate distress.²⁶

Because our government owes a positive duty to provide the services, and implement the initiatives which will contribute to the highest attainable standard of mental health, our government has an obligation to protect people from the harm that the climate emergency is causing for mental health. The young people who sought an injunction against the expansion of a coal mine in 2020, were responding to the failure of government to protect us all from that harm.

3. Climate Action is a matter of intergenerational justice.

Social workers uphold and promote social justice as a core principle for society, as well as for the people with whom we work. The AASW believes that this bill will address two important injustices in the current situation.

¹⁹ (Gunasiri, 2023)

²⁰ *ibid*

²¹ (Gergis J, 2023)

²² (Fava N, 2023) (Gunasiri, 2023)

²³ (Gergis J, 2023)

²⁴ (Gergis J, 2023)

²⁵ (Fava N, 2023) (Gunasiri, 2023)

²⁶ (Gunasiri, 2023) Young people believe that it would also have benefits in terms of promoting their peers' trust in government.

The first injustice is related to the rights of children and young people. One of the guiding principles underpinning the CRC is the right of all children to express their view on the issues that will affect them. In the studies referred to above, young people have already indicated that the climate emergency is having a negative effect on their mental health. These studies also show that without the power to vote, the experience of disempowerment is adding to their level of anxiety, making their mental health worse.²⁷

This adds to the clear implications for government policy making which we have described in relation to the rights of children to health. As well as the formal mechanisms for young people to provide structured input into government decision-making, it is important that governments pay attention to the input designed by young people themselves. Through their continuing school strikes since 2018, young people in Australia have made it very clear that they are worried by climate change and that they want more decisive, effective and timely action from government.²⁸

The second important issue is that social justice with respect to the climate emergency has an intergenerational dimension. The worsening effects of the climate emergency means that children alive today, and the people who will be born in the future will experience more harm caused by the climate emergency during the course of their lifetime than the adults who are currently alive. And yet, they are the people who have not inflicted the current environmental damage: those who have contributed least to the current situation will be worst affected.²⁹ For this situation to continue would represent a clear case of intergenerational injustice.

The case of *Sharma vs Minister for the Environment* represents an attempt by some young people to ensure that their responses to the climate emergency are indeed heard by decision makers in the government. The outcome of that case demonstrates that Australia does not currently have the legislative or policy framework to act on their opinions nor to address this intergenerational injustice. The AASW endorses the current bill because it represents an effective and appropriate response to this injustice.

Recommendation:

That the Climate Change Amendment (Duty of Care and Intergenerational Climate Equity) Bill 2023 be passed.

Conclusion

When considered together, the CRC and the positive right to the highest attainable standard of health care create an obligation on the Australian government to take action to protect current and future young people from the catastrophic consequences of the worsening climate emergency. Similarly, the principle of social justice demonstrates that the intergenerational consequences of the climate emergency must be incorporated into any climate policy that Australia is to adopt. The case of *Sharma vs the Minister for the Environment* has demonstrated that Australia does not currently have an effective mechanism for achieving these goals.

²⁷ (Gunasiri, 2023)

²⁸ (Howard, 2023)

²⁹ (Gergis J, 2023)

Responding to this clear gap in Australia's public policy framework requires vision and moral courage. The Climate Change Amendment (Duty of Care and Intergenerational Climate Equity) is a welcome measure to fill that gap. The AASW commends it to the Parliament and recommends that the Bill be passed.

Bibliography

- Australian Association of Social Workers. (2019, September 7). *AASW Declares a Climate Emergency*. Retrieved from Australian Association of Social Workers: aasw.asn.au/news-media
- Australian Association of Social Workers. (2020). *Code of Ethics*. Melbourne: AASW.
- Australian Association of Social Workers. (2022, July). *Climate Action Statement 2022*. Retrieved from International Federation of Social Workers: <https://www.ifsw.org/wp-content/uploads/2022/11/AASW-COP27-Climate-Action-Statement.pdf>
- Australian Association of Social Workers. (2022). *Federal Election Policy Platform Statement*. Melbourne: AASW.
- Australian Institute of Health and Welfare. (2022, July 7). *Social Determinants of Health*. Retrieved September 21, 2023, from Australia's Health: <https://www.aihw.gov.au/reports/australias-health/social-determinants-of-health>
- Carrington, D. (2023, November 21). World facing 'hellish' 3C of climate heating, UN warns before COP 28. *The Guardian*.
- Doctors for the Environment, Australia. (2021). *How Climate Change Affects Mental Health in Australia*. Melbourne: Doctors for the Environment, Australia.
- Environmental Law Australia. (2023, October 29). *Sharma v Minister for the Environment*. Retrieved from <http://envlaw.com.au/sharma/>
- Fava N, G. C. (2023). *Climate of Distress: Responding to the youth mental health impacts of climate change*. Melbourne: Orygen.
- Gergis J, B. G. (2023). *Climate Trauma: The Growing Toll of Climate Change on the Mental Health of Australians*. Melbourne: The Climate Council of Australia.
- Gunasiri, H. (2023). *Promoting mental health in a changing climate: children and young people as a priority population group*. Deeble Institute for Health Policy Research.
- Howard, J. (2023, November 17). As a student, I'm striking for climate action. If you're worried or angry about the climate crisis, join us. *Guardian Australia*.
- Office of the High Commissioner for Human Rights. (1989, November 20). *Convention on the Rights of the Child*. Retrieved June 1, 2023, from United Nations Human Rights: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>
- United Nations Committee on the Rights of the Child. (2023, August 22). *General comment no. 26 on children's rights and the environment, with a special focus on climate change*. Retrieved from UN Treaty Body Database: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FGC%2F26&Lang=en

© Australian Association of Social Workers

Melbourne office

Level 7, 14-20 Blackwood St
NORTH MELBOURNE 3051
PO Box 2008
Royal Melbourne Hospital VIC 3050

ACN 008 576 010
ABN 93 008 576 010

T: 03 9320 1000
W: www.aasw.asn.au
For general enquiries please contact:
social.policy@aasw.asn.au

For enquiries relating to this submission
please contact:
Angela Scarfe | Senior Policy Advisor



AASW

.....
Australian Association
of Social Workers