

JOINT STANDING COMMITTEE ON THE COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

**INQUIRY INTO THE MOST EFFECTIVE WAYS FOR WESTERN AUSTRALIA
TO ADDRESS FOOD INSECURITY FOR CHILDREN AND YOUNG PEOPLE AFFECTED BY
POVERTY**



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 23 NOVEMBER 2022**

SESSION ONE

Members

**Mrs R.M.J. Clarke, MLA (Chair)
Hon Neil Thomson, MLC (Deputy Chair)
Ms R.S. Stephens, MLA
Hon Ayor Makur Chuot, MLC**

Hearing commenced at 10.05 am**Mr JOHN SOUTHALAN****Adjunct Professor and Barrister, Private citizen, examined:**

The DEPUTY CHAIR: I would like to begin by acknowledging the Whadjuk Noongar people, the traditional owners of the land on which we meet today, and pay my respects to their elders past and present. On behalf of the committee I would like to thank you for agreeing to appear today and provide evidence in relation to our inquiry into the most effective ways for Western Australia to address food insecurity for children and young people affected by poverty. My name is Hon Neil Thomson, I am the deputy chair of the Joint Standing Committee on the Commissioner for Children and Young People. I would like to introduce other members. Robyn Clarke, the chair, the member for Murray–Wellington unfortunately cannot be here; she sends her apologies, but to my left is Rebecca Stephens, MLA, from Albany and we have online, Hon Ayor Makur Chuot, MLC, for North Metropolitan Region. So we have the three other members of the committee.

Mr SOUTHALAN: Good morning. I am pleased to meet you all.

The DEPUTY CHAIR: It is important that you understand that this is a formal meeting and that deliberately misleading the committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything you might say outside today's proceeding. Would you like to introduce yourself?

Mr SOUTHALAN: I also would like to acknowledge that I am on Whadjuk Boodja, Noongar land, and pay my respects to their elders past and present. I thank the members of the committee for an invitation to talk about human rights standards. I also wish to note on the transcript that I am appearing in my personal capacity and not representing any organisation that I work with or am associated with. I should also state at the outset that I am not an expert on food insecurity and poverty. My experience is more about regulatory systems and the implications of international human rights standards. One of the key aspects of that is the involvement and agency of the persons who are affected. I think the committee is well aware of this. I have seen from your website the submissions and evidence that you have already received from frontline organisations who are dealing with this or representing constituencies who suffer from these terrible impacts, and also from academics and researchers experienced in food and policy. I guess one thing that the human rights standards would say would be to emphasise the importance of the information and the ideas that are coming from those types of witnesses.

I have collated a range of the international standards, because they are quite lengthy, about food insecurity, poverty and issues, and provided them to the committee if they are of assistance. Perhaps, most relevant to the committee's focus would be that these documents emphasise the importance of a strategy and data and being informed by the people and the dynamics affected, and ensuring that policies and use of resources keep that in mind. Human rights for areas of economic and cultural significance like this are not so much a "you must do this." It is more often a warning that, look, if you are spending a lot of money and resources on other areas and there are basic human rights not being met, that is a useful indicator.

The other key thing is to ensure a policy coherence. I am sure this is something committees are very well aware of. You may have some agencies and some government policies that are pushing in one way, and it is important to ensure that that does not then cut across there. The easier part is

identifying the standards. The more complex issue is one of the implications of them. I guess the main point I would like to reiterate today and emphasise is that yes, human rights standards are fundamentally an obligation on the nation, but they also have relevance and importance for subnational governments and Parliaments, businesses and individuals. I think that is probably useful enough as an opening statement, and I am happy to take any questions from there.

[10.10 am]

The DEPUTY CHAIR: You certainly raise my interest on this. You mentioned policies and resources and also data. I assume you are referring to the obligations under international arrangements at both a national and subnational level, or maybe to report on certain things. I assume that might be what you are talking about.

Mr SOUTHALAN: It is partly that, yes. Australia has to report periodically to, say, the Committee on the Rights of the Child about what is being informed there. But it also comes back to informing how government agencies and people work within them, not just at the four-year reporting level, but also in your day-to-day work. I am sure that a useful question this committee and others would think about is, if someone has a policy—this is what we do on this aspect—then a relevant question is: what is the data that has informed that? What is the procedure that brought that policy about? Someone like me sitting in a room like this, if that is the only place you get a policy from, that is not a well-informed policy. This is very much something that the committee, I am sure, is well aware of, and getting material to guide that.

The DEPUTY CHAIR: In your opinion, how does Western Australia rate in relation to those issues around data policies and resources? Are you able to answer that question?

Mr SOUTHALAN: I am sorry, I am not. I could not give an informed view on that. There are certainly many good examples. I was curious myself to ask, “What does the Western Australian government say about human rights?” You land from a Google search on a page that says: “Human rights obligations: duties under international law to respect, to protect, and to fulfil human rights.” This is a statement of the Western Australian government. That is quite consistent with how human rights in these areas of economic, social and cultural rights are understood. Agencies have to respect that and ensure that their own officers and procedures are not impacting a right, but also go further to: Are we promoting this right? Are we ensuring that it is not being impacted or inappropriately impeded by other agencies? Sometimes then it is not just a matter of law, it is also whether we are putting in place measures and policies and things to do that. The very existence of this commissioner is, I think, a great example of that being put into place.

The DEPUTY CHAIR: I have one last question before I open it up to my colleagues. In relation to the specific issue of food insecurity, noting of course that in Western Australia as part of our inquiry we have travelled far and wide and have spoken to a number of people, we have observed some underlying issues, but there is quite a diversity in our social, economic and geographical distribution of some of those issues across the community. Do you think the human rights aspect is central to this inquiry that we are undertaking, and how do you think we might be able to improve our standing in relation to human rights, specifically related to the terms of reference of this inquiry?

Mr SOUTHALAN: Yes, they are important to this inquiry. I am afraid that I am not going to be able to assist with more specific direction that you should make this recommendation or this finding, other than to enforce some of the points I made at the start. The evidence in the submissions that you get from those agencies that are most familiar with this, that are giving you information about what is the degree of access perhaps to these services, would very much inform your findings. I apologise, Mr Thomson. As I say, I am not an expert in these issues and I am not familiar with the data myself so I do not think I am the appropriate person to say that it must be X, Y and Z.

Ms R.S. STEPHENS: From a human rights point of view, are you able to give us a bit more of an understanding of some of the things you might have seen, even worldwide, so that with the inquiry really around what I feel are the aspects of the child's wellbeing. If we do not do something as a government and as a society, we are neglecting the wellbeing of the child. From a human rights point of view, can you expand on some of those?

Mr SOUTHALAN: Yes. I guess one straw argument that is often put up against human rights is that this is a convention or a treaty that the Australian state signs up to. To the extent that Australia thinks it is an important issue, then they will make legislation. We have seen that. For instance, there is a racial discrimination treaty. Australia has enacted the law, the Racial Discrimination Act. That is enforced through courts and that is entirely appropriate. But we know that with many of these human rights issues yes, there is that degree, but there are also instances where that still occurs. I would say that the importance of human rights is that it cannot just be left as something that Canberra will look after or we will get a law from the commonwealth Parliament. It also informs individual actors. It has relevance for companies these days as well to the extent that they may be acting in a way that is impacting human rights. We are now starting to see more mechanisms where they can be called to account as well. It is a useful guidance and I would bring the committee's attention particularly to a document that the United Nations put out—I have provided it—called *Guiding principles on extreme poverty and human rights*. Much of this is aimed at international obligations between countries, but it also has some very useful material about how these might be implemented, even in developed countries, and it is picking up a lot of the ideas that I have covered earlier.

Hon AYOR MAKUR CHUOT: What obligations do human rights standards and UN commitments mean for the Australian government and the state in particular?

Mr SOUTHALAN: Again, I apologise that I cannot point you to a particular issue. The obligation on Australia is, of course, that it committed to the Convention on the Rights of the Child, for example. To the extent that that is not being met, the Australian state has to answer to those procedures. But the point I made earlier to Ms Stephens is that it is important not just to leave it at that stage and that this document, *Guiding principles on extreme poverty and human rights*, which I think is the best one, provides some very useful formulas and guidance on informing how that is best implemented within Australia.

The DEPUTY CHAIR: I have just been informed by staff that you have a PowerPoint presentation.

Mr SOUTHALAN: I do. I think that given the time, I have covered the main points.

The DEPUTY CHAIR: We are happy to ask some more questions. I was interested in the document in relation to poverty. I think you probably agree that, at least in a broad sense, a lot of the nutrition issues that our children face across the community and a lot of issues more broadly—you are talking about some of the matters around neglect, whether it be extreme neglect or even just on the edges, and around not having the right information or whatever through a whole range of issues. But really, at the core of that is the issue of poverty. That can be defined very broadly, I suppose. You mentioned that document provided by—if you could read it out.

[10.20 am]

Mr SOUTHALAN: It is "The Guiding Principles on Extreme Poverty and Human Rights". It is put out by the Office of the High Commissioner for Human Rights. Essentially, it is a collation of a lot of the material and guidance that has come out through treaties, comments on treaties and decisions. It is a 2012 document and I have given the reference to that.

The DEPUTY CHAIR: Thank you. Are there any principles in there that should be highlighted for the committee? Are there any aspects in that document that has been put out by the High Commissioner for Human Rights which you think the committee would be well advised to consider in the preparation of its report?

Mr SOUTHALAN: I think so, and these were some of the points that I made in my opening statement. They are issues of strategy, policy and coherence. Another one, and this is reflected in this document as well, is to look at issues of accessibility and the availability of materials. The committee is well aware of that because it has got submissions from various places in the state. You cannot just say, “We have a Foodbank down in Perth and there’s lots of material addressing this, therefore we’re fine.” Western Australia has an enormous area. I think a lot of your material has come through school canteen-type associations, and that is one thing that the United Nations says is possibly an area that is a very important one to look at. With compulsory education, hopefully that is an area where some very serious issues of food insecurity can be addressed.

The DEPUTY CHAIR: So that specific issue has been mentioned.

Mr SOUTHALAN: Yes, that is one thing that often the United Nations material about this will emphasise—the importance of doing it through schools.

The DEPUTY CHAIR: You talk about accessibility and availability. The committee did go to Warburton recently. We were advised that the road train only arrives—I think they are alternate weeks. There is a different road train every fortnight in terms of the materials they get up there. Obviously, there is an extraordinary remoteness for some of our communities, and Warburton is probably not the most remote community. There are more remote communities where children are challenged by some of the broader challenges. How does the High Commissioner for Human Rights contextualise some of the challenges that jurisdictions might face with respect to those extraordinary geographical challenges that we might face?

Mr SOUTHALAN: They do. That is one thing with the standards at the international level and why sometimes there is not a specificity—because they realise, depending on the country, there are issues of development and, perhaps, the system of government. There will be different ways in which these standards can be met. The key thing is making sure they are met and leaving some flexibility in that.

The DEPUTY CHAIR: We have just been given your presentation in hard copy, thank you. Do my colleagues have any other questions that they would like to raise?

Ms R.S. STEPHENS: Yes, and you kind of touched on it, John. Like you said, there is a responsibility from state government, globally and federal government. How do we ensure that children’s rights are at the forefront when you have these people making policy—and the human rights. It is something that I do not think we think of often enough. I do not know whether you have any—particularly with children’s wellbeing. Food is one thing, but there are obviously so many other aspects to it. From what we have been researching and what you have probably seen from some of the submissions, it is only getting worse.

Mr SOUTHALAN: I am saddened to hear it is only getting worse. I am not aware of that myself. I am not saying that is incorrect; I just do not know.

Ms R.S. STEPHENS: I just mean—well, obviously the cost of living, poverty. Where I am in Albany, I have got people coming in that do not have housing and are professional single parents. It is just a whole broad spectrum but, yes, we are here to represent the children in particular.

Mr SOUTHALAN: Very much. This returns a little to an earlier question about how is Western Australia doing in these things? A very important issue is that when this act was set up for the

commissioner, section 20 actually says that as part of performing your functions, you must, commissioner, give priority and have regard to the interests and needs of Aboriginal and First Nations people and children and young people who are vulnerable. That is where, again, I would say that some of this human rights material can help understand what are those interests and needs that should be accommodated. Again, it also says that the commissioner must have regard to the UN Convention on the Rights of the Child, so any material that comes through to explain in more detail how should this be fulfilled, that can help to inform the committee's role. To the extent that that has actually been written in the legislation—that is a very good example of this—and that there is a parliamentary committee in place to say, “Actually, we’re going to have an independent view of how that function is operating”, this is exactly the kind of thing that the UN would be saying is an important check, that is to bring this material in and to keep reviewing these things.

Ms R.S. STEPHENS: I think that we do not often say “human rights”. Those words “human rights” are a big word. People are probably scared to unpack what that actually means. I think it is really important that you have come to address the committee. I was a bit, kind of like, okay, but why? What is this about? But I think it has been really useful.

Mr SOUTHALAN: Thank you. I think sometimes people say there is no attention to human rights here. Well, whatever the issue—if there is a reconciliation policy, a diversity policy and there is something on protection of children—it might not be called “human rights”, but it is very much also trying to get to that outcome.

The DEPUTY CHAIR: Thank you for these slides. I am just going through them here and they are very useful. I like the slide where you have the different elements and some of their obligations, you could say, around a human rights framework looking at the Parliament and executive courts. I have two questions in relation to this. In a broad sense, do you think that the structure the state currently has—and this is in a broad sense in relation to the human rights framework—is fit for purpose? Is there anything you would like to discuss in relation to that?

Mr SOUTHALAN: One thing that many people would say is there is probably a need for a human rights charter. We know this exists in a number of other states—Victoria, Queensland and the Australian Capital Territory—and it is an issue that people are giving attention at the moment. That is certainly something that I would say is needed.

The DEPUTY CHAIR: Using the practical example that we are now dealing with as a committee in relation to food insecurity, how might a human rights charter inform that process?

[10.30 am]

Mr SOUTHALAN: I guess, in some respects, you are ahead of the game already by the fact that section 20 of the act already is bringing this in. That is the kind of example that a charter might provide, so it is perhaps not as directly relevant to this committee because it is there, but it is that kind of building in an awareness and a use of these international standards that can help.

But to get back to the earlier question, I am not so excited that everything has to be labelled human rights, as long as we are aware of what these human rights standards are and the important principles we can get from it. If there are a variety of ways of meeting that, that must be the most important thing. I think in answer to the question, a human rights charter in this particular area perhaps would not make as much of a difference because you already have the important section in the statute. But in many other areas, it is very much lacking.

The DEPUTY CHAIR: Thank you for that. That is very helpful. I do have a specific question around the aspect in relation to the executive, and it relates to the agents of the executive—being the

executive arm. You did mention programs—I should say resources policy data, not programs; those were comments I have made a note of. I do not think you have mentioned programs yet.

Mr SOUTHALAN: Programs, measures, yes.

The DEPUTY CHAIR: Measures would be part of the resources; that is right. I guess the following question from my broader question is: do you have any visibility or view in relation to the agencies of our executive in terms of the way it is fit for purpose in terms of delivering for some of the challenges that we might face with this inquiry?

Mr SOUTHALAN: I apologise again. This is not an area that I am familiar with. From what I can see in the statute, it is a good start, but I am actually not familiar with the work on the ground to make an observation.

The DEPUTY CHAIR: That is fine—just asking if you had one. That is fantastic.

Do you have any closing comments that you would like to raise in a sort of summary statement that we have not covered?

Mr SOUTHALAN: No. I think I have covered most of what I hoped to. Thank you very much for the opportunity again to address the committee.

The DEPUTY CHAIR: Thank you very much for the evidence today. Should you wish to provide any additional information for the committee's consideration, please feel free to send that through, because it is a fascinating area and it is one that I think we all need to be much more aware of as parliamentarians going forward in terms of the broader work we do in the Parliament of Western Australia. I do appreciate the briefing today; I think it was very useful. Thanks for making the time to join us today.

Mr SOUTHALAN: Thank you very much.

Hearing concluded at 10.32 am
