

Does the Disability Discrimination Act protect the human rights of people with disability?

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Introduction

The *Disability Discrimination Act 1992* (Cth) (**Disability Discrimination Act**) protects some of the human rights of people with disability, but it does not protect all rights of people with disability. Australia does not have human rights laws that cover the basic human rights for everybody, including people with disability. This means human rights protections for people in Australia are patchy and inconsistent.

This explainer tells you more about human rights for people with disability, how they are currently protected, and how a Human Rights Act can improve the protection of human rights for all Australians.

What are human rights and international law?

Human rights set the standard of how everyone should be treated and the entitlements they should have access to. They are based on fairness, mutual respect, dignity, and equality. Human rights are often described as **universal** because they are inherent for all people, all over the world.

Human rights are standards that makes sure that everyone can live a safe, free and dignified life. Human rights belong to all of us, no matter who we are, where we come from, what we look like or what we believe.

Human rights are recorded in international law, including the United Nations Universal Declaration of Human Rights. There are different types of international law including treaties, conventions, declarations and charters. They can also be referred to using the umbrella term **international instruments**. International laws are agreements between multiple countries outlining the rules and standards for government action.

These international instruments require governments to respect, protect and fulfill human rights and ensure governments do not breach human rights, provide accessible and effective remedies, and fully realise the equal enjoyment of human rights. The obligations placed on a country that signs an international agreement and the consequences for not following the law may be different depending on the type of agreement.

The United Nations creates the main international human rights laws. For an international law to be binding on a country like Australia, the government must sign the document and then ratify it. The process of **ratification** is where the government of a country formally commits to the rules and standards forming part of the law of its own country, referred to as domestic law.

Some human rights must be recognised in domestic law immediately. For other rights, the principle of **progressive realisation** applies. Progressive realisation is where governments and the rest of society continually take steps to remove barriers preventing people from having full enjoyment of their human rights. The principle of progressive realisation recognises that some changes cannot happen overnight. By building on the changes that have already been made and then taking more and more new steps to break down barriers, the aim is to achieve a society where all the human rights are upheld.

The United Nations, over time, responded to the specific and unique human rights violations experienced by specific groups of people. This includes women, children, Aboriginal and Torres Strait Islander peoples, people from culturally diverse backgrounds and people with disability.

What is the Convention on the Rights of Persons with Disabilities?

The United Nations *Convention on the Rights of Persons with Disabilities (CRPD)* is an international human rights law that sets out the fundamental human rights as they apply to people with disability.¹ It covers the obligations that countries comply with so people with disability can enjoy their human rights on an equal basis with others.

The CRPD challenges the ableism that underpins our society. Ableism, like racism and sexism, results in inequality and discrimination. It views disability as a deficit within the individual who needs to be treated or fixed, to be cared for, and is a burden on society. The CRPD recognises that impairment is a natural aspect of human diversity. Disability results from the interaction between people with impairments and barriers that prevent participation and inclusion in society on an equal basis with others. The goal of the CRPD is to eliminate ableism in society that denies the rights of people with disability.

One of the principles and rights included in the CRPD is the right to equality and non-discrimination.² Equality is the principle that all people are equal. Non-discrimination sets the standard for how laws must be created to achieve equality in practice. By ratifying the CRPD, **Australia has to comply with this right by making sure its laws do not discriminate** and that there are specific laws that make it unlawful to discriminate against someone on the grounds of disability. Federal, State and local governments must comply with this.

Australia signed the CRPD in 2007 and ratified it in 2008.³ A list of all the individual rights and country obligations set out in the CRPD can be found [here](#)⁴.

What is the Disability Discrimination Act and does it protect human rights?

While human rights are broad in scope, discrimination laws have the specific purpose of making it unlawful to discriminate against people who have attributes that are protected by the law, such as disability, age, sex or race. The Disability Discrimination Act defines discrimination as when someone treats a person less favourably because of their disability, in comparison to how they would treat someone who does not have

disability, or by putting in place rules and conditions that have an unfavourable impact on people with disability.

The Disability Discrimination Act protects people with disability from discrimination in areas of public life and provides a complaints mechanism to enable people with disability to seek redress for the discrimination they experience. In this way, the Disability Discrimination Act is one avenue to protect the right to equality and non-discrimination that is required by the CRPD and is a measure to facilitate Australia's obligation to provide effective access to justice for people with disability.⁵ However, the Disability Discrimination Act does not protect all the human rights contained in the CRPD⁶.

The Australian Government has an obligation under the CRPD to ensure effective access to justice for people with disability. The Disability Discrimination Act, together with the *Australian Human Rights Commission Act 1986* (Cth) (Australian Human Rights Commission Act), provide an avenue for people with disability to make a complaint when they have been discriminated against. The Australian Human Rights Commission Act allows for complaints to be made to the Commission when a human right has been breached.⁷ However, the Australian government has not put in place adequate pathways to access protections provided for in the CRPD or remedy complaints when human rights have been breached, which makes it harder for people with disability to access justice.

For more information on the Disability Discrimination Act, see our list of Disability Discrimination Act explainers [here](#).

How are other CRPD rights protected in Australia?

The CRPD covers many different human rights and places a wide range of obligations on countries to uphold human rights. Equality and non-discrimination are guiding principles for all the rights contained in the CRPD. While Australia protects the right of non-discrimination in the Disability Discrimination Act, other rights in the CRPD that are separate from non-discrimination cannot be included in the Disability Discrimination Act. Examples of some rights from the CRPD that cannot be included in the Disability Discrimination Act include the right to life, liberty of movement and nationality, and respect for privacy.⁸ Because Australia has included protections against discrimination in the Disability Discrimination Act, but not made laws protecting other human rights,

the legal system is patchy or incomplete where some human rights are protected but others are not. It also means that some people with disability experience a breach of their human rights, but because those human rights are not properly protected in domestic laws, they do not have the option of using the justice system, like court or tribunal pathways, to have their rights upheld.

This issue does not just apply to the CRPD. Other international human rights laws have been ratified by Australia, but not all of the rights from those laws have been implemented in domestic law.

How can all human rights be protected in Australian law?

All human rights can be protected in Australia by introducing a national Human Rights Act.⁹ This is a law that would outline the fundamental human rights of all people in Australia, including people with disability.

An Australian Human Rights Act would:

- Require the Australian Government to properly consider and comply with human rights when making decisions, delivering services and developing laws and policies.
- Allow for a better understanding of rights and build a culture that prevents human rights breaches.
- Give people the power to take action if their rights are breached.

A Human Rights Act would protect the rights of people with disability, and the rights of everybody else in Australia.

Learn more about a Human Rights Act [here](#).

Citations

¹ 'United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)', *Australian Human Rights Commission* (Website, 2025) <<https://humanrights.gov.au/our-work/disability-rights/united-nations-convention-rights-persons-disabilities-uncrpd>>.

² *Convention on the Rights of the Persons with Disabilities*, opened for signature 30 March 2007, 2515 UNTS 320 (entered into force 3 ay 2008), Art 5.

³ 'Ratification Status', *UN Treaty Body Database* (Webpage, 2025)

<https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRPD>

⁴ *Convention on the Rights of the Persons with Disabilities*, opened for signature 30 March 2007, 2515 UNTS 320 (entered into force 3 ay 2008).

⁵ *Disability Discrimination Act 1992* (Cth).

⁶ *Disability Discrimination Act 1992* (Cth).

⁷ *Australian Human Rights Commission Act 1986* (Cth) s20.

⁸ *Convention on the Rights of the Persons with Disabilities*, opened for signature 30 March 2007, 2515 UNTS 320 (entered into force 3 ay 2008), Arts 10,18 & 22.

⁹ Australian Human Rights Commission, *Free and Equal Final Report: Revitalising Australia's Commitment to Human Rights* (2023) 11.