

Human rights and *Women*



**Australian
Human Rights
Commission**

everyone, everywhere, everyday

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This information sheet talks about some of the human rights issues faced by women in Australia. It also highlights how a federal Human Rights Act could help deal with these issues.

Which human rights are we talking about?

Human rights are about everyone, and they are very important for women. We are all entitled to the enjoyment of all human rights without discrimination of any kind, including discrimination on the basis of our sex.

There are certain human rights and freedoms that are particularly relevant to women, including the right:

- to an adequate standard of living, including adequate food, clothing and housing
- to the highest attainable standard of physical and mental health
- to be safe and free from violence
- to education
- to work, and fair working conditions (including equal pay for equal work)
- not to be discriminated against on the grounds of sex, marital (or relationship) status or pregnancy
- to special protections for a reasonable time before and after childbirth, including paid leave or leave with adequate social security benefits for working mothers
- to take part in cultural life and the conduct of public affairs.

What are some of the human rights problems faced by women in Australia?

Some of the key human rights problems faced by women in Australia include:

- **Homelessness**
In Australia, many women live without adequate access to basic living requirements such as housing and food. On census night in 2006, more than 46 000 women were homeless. The major causes of homelessness amongst women include domestic violence, sexual assault and family breakdown.
 - **Violence**
One in three women in Australia has experienced violence. Violence against women, including sexual assault, domestic and family violence – and the fear of such violence – impacts upon the capacity of women to participate in social, economic and cultural life fully and equally.
 - **Equal participation**
Women experience barriers to their full and equal participation in public life, including the paid workforce. This includes the lack of a legislated paid maternity leave scheme, discrimination and sexual harassment.
 - **Gender gap in income**
Many women in Australia have lower earnings over their lifetime than men. Women working full time earn 84 cents in the male dollar; they are more likely than men to leave the workforce to take up caring responsibilities; and, compared to men, have significantly less retirement savings.
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Importance of maternity leave

‘With the birth of Ethan this June, I had a caesarean again and it is very different. We live upstairs so physically it’s hard. I haven’t had time to relax, and take it easy. Coping on your own as a couple with a new baby, getting to know the baby, then the financial pressures, and then going back to work [two weeks after the birth] – it is very hard. I’m tired, irritable. And I can’t see my baby! I wanted to bring him in and keep him under my desk!’

Human Rights and Equal Opportunity Commission, *A time to value: Proposal for a national paid maternity leave scheme* (2002), p 53.

Domestic violence and housing

‘Domestic violence is an issue that is hard to discuss. There is an element of shame. You are being violated but there is also love and loyalty attached to it. You think everyone else is leading a normal life. It was difficult to communicate with my colleagues. It affected me mentally and physically.’

Listening Tour 2008, Tasmania

‘I have had big troubles with housing. [I have ended up] going to refuges [or] staying with relatives and friends. How can you stay stable and provide good parenting to your children without a roof over your head? I was made to feel like a mental case.’

Listening Tour 2008, New South Wales, Human Rights and Equal Opportunity Commission

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Financial independence

‘As a baby boomer approaching retiring age and having spent most of my years raising children, I have very little hope of retiring and will need to work for as long as possible. I will not be independent financially. Many women I know are the main income earner, sometimes this will be off farm income in order to maintain the family farm and lifestyle due to drought etc, or because they may have a husband with a disability. The pressure is really on women who have not been high income earners and the outlook for the future is bleak. I see many tired women who are working full-time, supporting husbands and trying to be a helpful grandparent. None of these things is easy without financial independence.’

Listening Tour Diary (Dec, 2007), Human Rights and Equal Opportunity Commission.

What are the limitations of existing human rights protections for women?

There are limited human rights protections for women at the moment.

Federal politicians and public servants don’t have to consider the rights of women when developing and implementing new laws and policies on issues such as housing, health, education, employment and superannuation.

If you feel that you have experienced sexual harassment or discrimination based on sex, pregnancy, marital (or relationship) status or family responsibilities, you can make a complaint to the Australian Human Rights Commission under the federal *Sex Discrimination Act 1984* (Cth) (SDA). Or, you can make a complaint under state or territory anti-discrimination laws.

However, there are limitations to this protection. For example:

- women are not protected from discrimination and sexual harassment in all areas of public life
- women are not able to make a complaint about discrimination at work because of caring responsibilities such as looking after older parents
- working women do not have a right to minimum paid maternity leave.

Women who are sacked because of their sex, marital status, pregnancy or family responsibilities may also be protected by the *Workplace Relations Act 1996* (Cth).

How could we improve human rights protections for women?

The Australian Human Rights Commission supports a Human Rights Act for Australia.

A Human Rights Act that protects economic, social and cultural rights (such as the rights to adequate housing, health and an adequate standard of living) could make a difference to the lives of women in Australia. It could improve the policies, procedures and services that many women encounter daily.

A Human Rights Act could help prevent the human rights problems faced by women and provide remedies for those human rights breaches that were not prevented. It could make a difference in protecting and promoting the rights of women by requiring our government to consider carefully how decisions impact on their human rights.

If Australia had a Human Rights Act, it could:

- make the **federal Parliament consider how laws impact on human rights** – for example, any debate on changes to workplace relations, taxation or social security laws would need to take into account the different needs of women
- make the **federal government respect human rights when developing policy** – for example, when considering appropriate support for working mothers
- make **public servants respect human rights when making decisions and delivering services** – for example, when providing housing to women and children at risk of homelessness
- provide a **range of enforceable remedies** if a government authority breaches human rights.

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How the UK Human Rights Act helped to protect a family

The United Kingdom has had a Human Rights Act since 1998. The British Human Rights Institute tells the story of a woman who fled domestic violence with her children. The woman's husband attempted to track the family down and they moved towns whenever he discovered their whereabouts. The family eventually arrived in London and were referred to the local social services department. Social workers told the mother that she was an 'unfit' parent and that she had made the family intentionally homeless. They said that her children had to be placed into foster care. An advice worker helped the mother to challenge this claim on the basis of the right to respect for family life. As a result, the family were told that they could remain together and that the social services department would provide the deposit if they could secure private rented accommodation.

British Institute of Human Rights, *The Human Rights Act – Changing Lives* (2nd ed, 2008), p 18.

Over the longer term, a Human Rights Act would also be a powerful tool for fostering a stronger human rights culture in Australia by promoting greater understanding and respect among all people in Australia.

In addition to a Human Rights Act, there is a range of other ways in which the human rights of women could be better promoted and protected in Australia. For example:

- enhanced protection of human rights in the Australian Constitution
- stronger protections under the existing Sex Discrimination Act
- guaranteed paid maternity leave
- better protection from evictions from housing
- a strong national plan to address violence against women
- a National Human Rights Action plan, including a focus on the rights of women
- a national public education program about human rights, including women's rights.

These and other measures could make a positive difference to human rights protection.

Where else can I find out about women's human rights?

Australian Human Rights Commission:

www.humanrights.gov.au/sex_discrimination/index.html