

Women's Rights Fact Sheet

» 5 minutes is all it takes

To learn more about Australia's implementation of CEDAW

Since becoming a party to CEDAW, Australia has developed many mechanisms for implementing the rights enshrined within this treaty. The Sex Discrimination Act 1984 (Cth) is one of the important mechanisms. The criminal justice system, the legal system, and a wide range of policies and programs, as well as cultural attitudes, are also important parts of implementing and enforcing the rights enshrined in CEDAW.

The Sex Discrimination Act

The Sex Discrimination Act (SDA) is Commonwealth legislation, which makes sex discrimination against the law. The SDA was passed in 1984 and gives effect to some of the obligations under CEDAW. The SDA is administered by the Australian Human Rights Commission and includes the role of the Sex Discrimination Commissioner. All states and territories have anti-discrimination laws that also prohibit sex discrimination. These laws are administered by State Government equal opportunity or anti-discrimination bodies.

The major objectives of the Sex Discrimination Act are to:

- » Promote equality between women and men
- » Eliminate discrimination on the basis of sex, marital status or pregnancy or potential pregnancy at work, in educational institutions, in the provision of goods and services, in the provision of accommodation and the administration of federal programs, and dismissal from work because of family responsibilities
- » Eliminate sexual harassment at work, educational institutions, in the provision of goods and services, in the provision of accommodation and the administration of federal programs.

In practical terms this means that in Australia it is against the law to discriminate on the basis of sex, marital status, pregnancy or potential pregnancy. The Sex Discrimination Act also prohibits sexual

harassment and dismissal from employment on the basis of family responsibilities. Victimisation associated with any of these grounds is also prohibited. The Sex Discrimination Act sets a standard that to live and work in an environment free of sex discrimination and sexual harassment is a human right – not a privilege.

Australian Human Rights Commission and the Sex Discrimination Commissioner

The Australian Human Rights Commission (the Commission) is an independent statutory authority and is Australia's national human rights institution (NHRI). NHRIs receive, investigate and conciliate complaints of discrimination or human rights abuses; review national laws, policies and programmes to ensure that they are consistent with human rights standards; monitor a state's compliance with its own laws and with international human rights standards and recommend changes when necessary and raise community awareness and understanding of human rights issues.

The Australian Human Rights Commission was established in 1986 by an act of the Federal Parliament (Human Rights and Equal Opportunity Commission Act 1986) and reports to the Federal Parliament through the Attorney-General.

The Sex Discrimination Commissioner is a member of the Commission. The Sex Discrimination Commissioner plays an independent role in monitoring progress on implementing obligations under CEDAW and promoting progress towards gender equality in Australia. The Commission is responsible for receiving complaints for breaches of the Sex Discrimination Act. It also holds public inquiries into issues of national importance, provides independent advice to assist courts in cases that involve human rights principles and advise parliaments and governments on developing laws, programs and policies.

As Australia's NHRI, the Commission and the Sex Discrimination Commissioner have an important role in promoting the rights of women and monitoring the implementation of CEDAW.

National agencies relevant to women's rights

- » Federal Ministerial Portfolio for Women
- » Office for Women (Federal & State Government)
- » Sex Discrimination Commissioner and Aboriginal and Torres Strait Islander Social Justice Commissioner at the Australian Human Rights Commission (Federal Agency)
- » State/Territory equal opportunity and anti-discrimination agencies
- » Workplace Gender Equality Agency (Federal Agency).

Legislation relevant to women's rights and human rights in general

In order for people in Australia to be able to claim the rights contained in any of the human rights treaties to which we have become party, those rights must be incorporated into domestic legislation. This is called "direct implementation." Once this has occurred, people living in Australia can claim these rights through our own country's legal processes. None of the treaties that Australia has signed are fully incorporated into domestic legislation. Instead, treaties have been partially incorporated in the following:

- » Racial Discrimination Act 1975 (Cth)
- » Sex Discrimination Act 1984 (Cth)
- » Privacy Act 1988 (Cth)
- » Human Rights & Equal Opportunity Commission Act 1986 (Cth)
- » Disability Discrimination Act 1992 (Cth)
- » Racial Hatred Act 1995 (Cth)
- » Evidence Act 1995 (Cth)
- » Age Discrimination Act 2004 (Cth).

Treaties have also been partially incorporated in State and Territory legislation for example:

- » Charter of Human Rights and Responsibilities Act 2006 (Victoria)
- » Human Rights Act 2004 (ACT)
- » Domestic and Family Violence Act 2012 (Qld)
- » State based criminal codes.

Note: Women who have their employment terminated due to their sex, marital status, pregnancy or family responsibilities may also be protected by the *Workplace Relations Act 1996* (Cth).

CEDAW and the Government Reporting Process

Countries that are signatories to CEDAW are required to

What can you do to promote women's human rights?

- ★ Educate friends, family, colleagues, and the community about women's rights and the conventions.
- ★ Educate women that the violence happening against them is a violation of their human rights and international law.
- ★ Be a positive role model and use non-violent language and communications skills at home and at work.
- ★ Educate and lobby elected officials on issues of women's rights with the aim of improving policies and programs and change laws to better protect women's rights.
- ★ Elect officials who understand human rights and who will promote women's rights and interests.



report to the CEDAW Committee every four years about how they are fulfilling their responsibilities under the treaty and about the ongoing human rights challenges women face.

The Australian Government works with the State and Territory governments to prepare the report on how Australia is implementing CEDAW, and consults with the community. The Australian Government submits Australia's report to the UN (United Nations) for the CEDAW Committee to consider. Government representatives must appear before the Committee when their report is being examined to discuss their country's progress and answer any questions.

The CEDAW Committee issues concluding comments following its consideration of Australia's report and the information the Australian delegation provide during its appearance before the Committee.

The Australian Government is required to respond to the concluding comments, and detail the action it has taken to address them, in its next report.

Community sector 'shadow' reporting process

The CEDAW Committee encourages the non-government organisations (NGO's) to follow its work and to provide reports so it can gather alternative views to those provided by governments. The Committee welcomes country specific information from NGOs in the form of reports and oral evidence that 'shadow' the government reports.

The community sector plays a key role in monitoring CEDAW in Australia by preparing shadow reports reflecting their views on the Australian Government's achievements and remaining challenges under CEDAW.

As shadow reports do not need to be submitted until the Committee appearance, they are often drafted after the Government report is lodged. This means a shadow report can draw on and respond to information in the Government report.

NGOs play a vital role in monitoring and implementing CEDAW by: spreading awareness of CEDAW and the rights in it to people around the world; lobbying governments, businesses and individuals to implement CEDAW; and providing information to governments on progress, difficulties and strategies to enable more effective human rights implementation.

Women's Rights in Australia

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 affairsⁱ.

ⁱ Australian Human Rights Commission. (2009). Human Rights and women information sheet

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

Homelessness: in Australia, many women live without adequate access to basic living requirements such as housing and food. The major causes of homelessness amongst women include domestic violence, sexual assault and family breakdownⁱⁱ.

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 – negatively impact upon the capacity of women to participate in social, economic and cultural life fully and equallyⁱⁱⁱ.

Equal participation: women experience barriers to their full and equal participation in public and political life, including the paid workforce in particular women continue to be under represented in leadership and decision making^{iv}.

Gender gap in income: many women in Australia have lower earnings over their lifetime than men. Women are more likely than men to leave the workforce to take up caring responsibilities; and, compared to men, have significantly less retirement savings^v.

Equal access to education for vulnerable groups of women: in Australia some women experience greater privilege than others and some women do not enjoy the same employment-related outcomes of the education system^{vi}.

Aboriginal and Torres Strait Islander women: this group of women experience a very high level of disadvantage compared with other women in Australia^{vii}.

Women with disabilities: women with disabilities experience violence in institutions and supported accommodation. There is also slow progress in realising their equal participation in leadership and decision making positions in public and political life as well as their equal access to education, employment and health^{viii}.

Culturally and Linguistically Diverse women: government needs to address existing barriers to workplace participation of migrant women and develop a policy of equal access to effective job training and placement services that are not limited to traditional employment opportunities. Other issues relevant to migrant women are their experience of high levels of violence and the need for linguistic and culturally appropriate health services^{ix}.

ⁱⁱ Australian Human Rights Commission. (2009). *ibid*

ⁱⁱⁱ Australian Human Rights Commission. (2009). *ibid*

^{iv} Australian Human Rights Commission. (2009). *ibid*

^v Australian Human Rights Commission. (2009). *ibid*

^{vi} YWCA Australia. (2011). CEDAW Action Plan for women in Australia. Canberra: YWCA.

^{vii} YWCA Australia. (2011). *ibid*

^{viii} YWCA Australia. (2011). *ibid*

^{ix} YWCA Australia. (2011). *ibid*