



Women
With
Disabilities
Australia
(WWDA)

WWDA POSITION STATEMENT

HUMAN RIGHTS ACT

The human rights of people with disability must be protected in Australian law through a national Human Rights Act.

The Issue

The current legal frameworks in Australia do not effectively protect, promote or advance the rights of people with disabilities. The Disability Royal Commission revealed the experiences of people with disabilities and the extent of violence, neglect, and abuse in Australia. Substantial legislative reforms are required to protect the rights of people with disabilities and to ensure we have appropriate recourse when those rights have been violated.

There are different approaches to addressing this issue. While some recommend the development of a specific Disability Rights Act, WWDA supports the implementation of a comprehensive national Human Rights Act.

What did the Disability Royal Commission recommend?

The Disability Royal Commission Final Report recommended that the Government establish a Disability Rights Act 'to translate the international human rights of people with disability into domestic Australian law'.¹

It also called for the establishment of the National Disability Commission which would be responsible for promoting disability rights and understanding of the rights and duties under the proposed Disability Rights Act.

WWDA's Position

WWDA believes that the protection of the rights of people with disabilities will best be achieved through a comprehensive National Human Rights Act – rather than a standalone Disability Rights Act.

WWDA's work is grounded in a human rights framework which links gender and disability issues to the full range of civil, political, economic, social and cultural rights.

Many people with disabilities experience compounded inequality and discrimination at the intersections of disability and other identities, attributes and experiences. For example, there are types of harm and discrimination that women with disabilities experience, that non-disabled women or other people with disabilities are less likely to experience.

The United Nations Convention on the Rights of Persons with Disabilities specifically refers to the intersectional discrimination that women and girls with disabilities experience.

However, Australia's current approach to human rights and anti-discrimination is fragmented and inconsistent. A National Human Rights Act would provide a more cohesive approach to implementing Australia's international human rights obligations, and would better recognise the rights of people with disabilities who experience intersectional discrimination. It would also reflect the fundamental principle that human rights are indivisible, interdependent and interrelated – they can't be viewed in isolation.

What would a National Human Rights Act look like?

In 2022 the Australian Human Rights Commission produced a position paper outlining a model for an Australian Human Rights Act and associated reforms. A National Human Rights Act would be focused on implementing all human rights obligations, including in relation to disability, into Australian law. It would also provide options for people to challenge and address actions and decisions that violate their human rights. Critically, it should extend to the full range of civil and political rights and economic, social and cultural rights.

A comprehensive Human Rights Act would:

- incorporate obligations across a range of treaties including the Convention on the Rights of Persons with Disabilities (CRPD);
- support the development of legislation and policies that reflect all of Australia's international human rights obligations;
- recognise intersectional inequity and discrimination;
- promote an understanding of human rights as inalienable, inter-related, indivisible and interdependent; and
- provide pathways for addressing breaches of human rights that occur at the intersections of multiple identities or attributes.

Evidence it can work

Although Australia does not have a National Human Rights Act, human rights legislation has been enacted in a number of different Australian jurisdictions. This human rights legislation has had a positive impact on the experiences of people with disabilities in those states or territories.

The success of the state-based legislation shows that disability rights can be protected effectively through broad human rights legislation.

The proposed model for a National Human Rights Act should build on the lessons from the existing legislation. It should also promote and ensure consistency across all states and territories.

Recommendation

A comprehensive and judicially enforceable Human Rights Act should be implemented which specifically incorporates:

- Australia's obligations under the CRPD and other human rights treaties; and
- The full range of civil and political rights and economic, social and cultural rights.

The Act must address the issues that would have been covered by a separate Disability Rights Act, and be developed and evaluated with people with disabilities and their representative organisations.

The Australian Human Rights Commission (AHRC) should be appropriately resourced to ensure its role and function includes a disability rights mandate.

Endnotes

- 1 Disability Royal Commission (2023). Final Report.