



My Rights
Your Rights
Our Rights
Women's Rights

Acknowledgement of the Traditional Owners

The Women's Centre acknowledges the traditional owners and custodians of the region across whose land it conducts its business. These fact sheets were produced in Townsville, the home of the proud Bindal and Wulgurakaba people to whom we pay our respects. Respect is also extended to Aboriginal and Torres Strait Islander women who for thousands of years have preserved their culture and practices across their country's. Acknowledgement is extended to the Aboriginal and Torres Strait Islander Elders of today and to those who have passed on.

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We would like to thank the Australian Government Attorney-General's Department for being at the forefront of providing such vital public education on women's rights. We strongly believe this information will support women to develop a deeper understanding of their human rights.

Overview

The Women's Centre has been promoting and protecting women's rights for over 20 years and acknowledges the committed action of the many women who have, over time, made significant progress in the realisation of women's rights. We stand on the shoulders of these women and acknowledge, honour and recognise the profound influence their efforts have made to our collective lives. The Women's Centre is committed to affirming and upholding the promotion and protection of women's human rights through the lens of CEDAW and other international human rights treaties.

These fact sheets have been designed to support women and men to expand their awareness of women's rights and empower people to commit to a world without violence. These fact sheets focus on violence against women; however we acknowledge that children and men also experience violence.

June 2013.

Women's Rights Fact Sheet

» 5 minutes is all it takes To learn more about international human rights

The United Nations and human rights

Established in 1945 after the Second World War, the United Nations (UN) is an international body responsible for facilitating international cooperation and communication around global issues, such as world peace, social progress, better living standards and adherence to human rights standards. Australia was one of the 51 founding Member States of the United Nations.

What is a human rights treaty?

A human rights treaty can loosely be compared to a contract. It is an agreement which establishes international standards for the protection and promotion of human rights under international law and is entered into by States (the national government of a country). When a country signs and ratifies a treaty it accepts an obligation to introduce those standards into domestic laws, policies and programs. Each treaty has a UN committee of independent experts that monitor and oversee its implementation. If a country fails to live up to their obligations they can be held liable under international law. Enforcement mechanisms are built into each treaty and countries are required to submit progress reports to the treaty committee. Reports are required to detail the country's progress on implementing that treaty. Non-government organisations (NGOs) are encouraged to submit shadow reports in response to the country report as an alternative voice to government and as a means of holding governments accountable.

What is the difference between a convention and a declaration?

A treaty may also be known as an international agreement, protocol, covenant, declaration or convention. Conventions are a part of international law and are legally binding to State parties. Declarations are non-binding but carry significant moral commitment and responsibility in the international community. For example the *Universal Declaration of Human Rights* (UDHR) and the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW).

"All human beings are born free and equal in dignity and rights. Everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights, without distinction of any kind, such as race, creed, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Everyone has the right to life, liberty and security of person."ⁱ

ⁱ United Nations Population Fund. (1994) International Conference on Population and Development, Programme of Action Principle 1.



What are human rights?

Universal human rights standards were developed in response to, and with the hope of avoiding a repetition of, the atrocities of the Second World War.

Human rights are the basic rights and freedoms that allow each of us to live with dignity and participate fully in civil, political, economic, social and cultural life. The concept of human rights acknowledges each individual is entitled to enjoy her or his rights without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. They protect individuals and groups against actions that interfere with their fundamental freedom and human dignity.

Human rights are **universal**, which means they belong to everyone regardless of age, gender, race, sex, disability or other attribute. Human rights are also **inherent** that is they are our birth right and belong to us simply because we exist as human beings and are **inalienable** meaning they cannot be given or taken away.

Human rights are a set of values that all human beings can claim in order to live in dignity and freedom. These rights are a set of social and legal contracts between governments, institutions and individuals identified in a body of mechanisms, tools and methods that both make governments accountable for implementing them, and empower people to act when they are not being met. Human rights set minimum standards for how people everywhere should be treated. They place an obligation on governments to ensure that we enjoy our rights, and empower people with tools for action when our rights are not met.



Which rights?

International treaties protect a range of rights. These include:

Civil and political rights: these rights allow us to take part in the public and political life of our community and include the right to vote, the right to freedom of thought and expression, the right to privacy and the right to a fair trial.

Economic, social and cultural rights: these rights ensure a decent standard of living and include the right to just and favourable conditions of work, the right to health, the right to adequate housing, the right to education and the right to live a life without violence.

The rights of equality and non-discrimination: these rights ensure everyone is able to enjoy all their human rights on an equal basis. The right to equality and non-discrimination means ensuring government policies, legislation and services do not discriminate on the grounds of race, gender, sex, age, disability or other attribute. Achieving equality may also require governments to take positive action to ensure particular groups have equal enjoyment of human rights.

The *Universal Declaration of Human Rights* (UDHR), agreed to by the nations of the world on 10 December 1948, sets out the basic rights and freedoms of all women, children and men. Rights include: access to education; paid employment; health care; food and housing; the right to participate in culture; and

security of person. The UDHR is the most fundamental international document on human rights, and in the years since its proclamation it has served as a moral compass for the world.

Who has the responsibility to protect human rights?

International treaties hold governments accountable for protecting the human rights of their citizens. In other words, it is the responsibility of governments to respect, protect and fulfil human rights. However, all people have a responsibility to respect and protect the human rights of others. Three principal obligations have been defined under the human rights treaties:

- » the **obligation to respect** requires the State to ensure that none of its officials acts to violate human rights or the obligations contained in a particular treaty.
- » the **obligation to protect** requires the State to take action to ensure that governments, or third parties (for example, individuals or corporations), do not violate the rights of others.
- » the **obligation to fulfil** requires the State to take positive action to ensure that everybody within its jurisdiction is able to enjoy fully all their human rights.

Australia has signed a range of treaties

The Australian Government has an obligation to respect, protect and fulfil human rights. This means the government is obligated to take pro-active measures to ensure human rights are protected by providing effective remedies for persons whose rights are violated, as well as measures against violating the rights of persons. Australia has signed a range of international treaties and is therefore obliged to fully implement the principles stated in these international agreements.

- » Universal Declaration of Human Rights
- » International Covenant on Civil and Political Rights
- » International Covenant on Economic, Social and Cultural Rights
- » Convention on the Rights of the Child
- » Convention on the Elimination of All Forms of Discrimination against Women
- » Convention on the Elimination of All Forms of Racial Discrimination
- » Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- » Declaration on the Elimination of Violence Against Women.

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» 5 minutes is all it takes

To learn more about international women's rights

Why do we need to talk about rights for women?

The goal of achieving gender equality is incorporated into the Universal Declaration of Human Rights (UDHR) and the preamble to the Declaration states:

Whereas the people of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom (para 5).

Likewise, Article 2 of the Declaration sets forth that:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex or other status.

Despite the formal commitment laid out in the UDHR it failed to deal with the continuing evident discrimination against women, in all parts of the world, in a comprehensive way. The Declaration and other rights conventions did not adequately address the specific needs of women or identify the gender specific mechanisms used to deny women their human rights, such as sexual violence and exploitation and limits to reproductive rights.

Therefore, the United Nations (UN) and the broader international community recognised that due to some social structures, traditions, stereotypes and attitudes about women and their role in society that women continue to experience disproportionate levels of

discrimination and violence and do not always have the opportunity and ability to access and enforce their rights on the same basis as men.

As a result of strong lobbying from within the women's movement, as well as recognition from within the UN of the failure to achieve equal rights for both women and men, the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) was introduced on 18 December 1979 to advance the status of women.

Which conventions relate to women?

The International Bill of Human Rights is an informal name used to describe three human rights instruments which consist of: the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Civil and Political Rights* (ICCPR), and the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR). All of the articles in these documents apply equally to women and men.

The *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) offers the most comprehensive coverage of women's rights. Other international documents important for women are: the *Vienna Declaration and Programme of Action* and the *Declaration on the Elimination of Violence Against Women* (DEVAW).

What is CEDAW?

The *Convention on the Elimination of All Forms of Discrimination Against Women* is a human rights treaty which was adopted by the United Nations in 1979 and entered into force in 1981 and is also referred to as the international bill of rights for women. There are now 187 countries across the international community who are signatories to this treaty. The United Nations Committee on the Elimination of Discrimination against Women is responsible for monitoring the implementation of this treaty.

CEDAW defines the right of women to be free from discrimination and sets the core principles to protect this right. It establishes an agenda for national action to end discrimination against women in public and

187 countries agree violence against women is preventable and is a global priority.



private life and provides the basis for achieving equality between men and women through ensuring women's equal access to, and equal opportunities in, political and public life as well as education, economic life, health and employment and other important areas of women's lives. CEDAW is the only human rights treaty that affirms the reproductive rights of women.

CEDAW requires governments of countries that sign the treaty to ensure that laws, policies, customs and practices do not discriminate against women, either directly or indirectly. Where women are discriminated against the government has an obligation to ensure that the person or organisation discriminating against women is held accountable.

What CEDAW **does not** contain is an explicit reference to violence against women; however the CEDAW committee has issued a general recommendation which states that violence directed against a woman because, she is a woman, or violence that affects women disproportionately is recognised and addressed as discrimination under CEDAW. It is recognised that when women experience violence, a range of their rights are violated.

The main purpose of CEDAW is to address the historical inaction of governments on issues important to women and establishes an agenda for action to end discrimination. Australia has signed the CEDAW which means Australia is legally bound to put the provisions of this treaty into practice and incorporate it into Australian law.

Implementation of CEDAW

States (a country's national government) are obligated to protect and fulfil the rights in CEDAW in three different domains: public, private and cultural.

1. In the **public** domain States must embody the principle of equality into national constitutions and domestic legislation ensuring legal protection of the rights of women on an equal basis with men (article 2 a, c).
2. In the **private** domain States must eliminate discrimination against women by any person, organisation or enterprise (article 2, e).
3. In the **cultural** domain States must work to modify the social and cultural patterns ... to achieving the elimination of prejudices and customary and all other practices, which are based on ... stereotyped roles for men and women (article 5, a).

What is DEVAW?

The human rights system was slow to recognise violence against women as a human rights issue but by the 1990's the human rights system finally

recognised the reality of women's lives. In recognition of the particular human rights violations that women continued to experience UN members negotiated and adopted the Declaration on the Elimination of All Forms of Violence Against Women (DEVAW). DEVAW is a human rights treaty which was adopted in 1993 and was the first international human rights instrument to exclusively and explicitly address the issue of violence against women. Although it does not have the binding legal authority of a convention, it is universal in coverage and makes a strong statement of principle to the international community. Around the same time the UN appointed an independent expert to examine the prevalence of violence against women: the Special Rapporteur on violence against women. The role of the Special Rapporteur is to investigate and review issues of violence against women and assess whether government legislation, programs and policies require additional analysis and attention. The Special Rapporteur also regularly conducts country visits to monitor and review progress on the implementation of DEVAW. DEVAW affirms that acts of violence violate, limit or nullify women's human rights and their ability to exercise their fundamental freedoms.

The Declaration provides a definition of gender-based abuse, calling it 'any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.' It also explicitly includes "sexual harassment and intimidation at work, in educational institutions or elsewhere."

DEVAW is seen as complementary to, and a strengthening of, the work of CEDAW. Australia has signed DEVAW which means Australia is morally (not legally) bound to put the provisions of this treaty into practice and incorporate it into Australian law.

The UN and inter-governmental bodies

Within the United Nations there are many specialised committees and groups singularly focussed on gender equality. Three of these organisations are: the CEDAW Committee, Commission on the Status of Women, and UN Women.

The CEDAW Committee

Countries that have committed to CEDAW are required to submit reports to the CEDAW Committee at least every four years. These reports detail the measures the national government has taken to comply with its obligations. The CEDAW Committee is made up of 23 members elected in their capacity as 'gender experts'.

Human rights abuses, like sexual assault and domestic violence, happen in Australia every day and the role of the United Nations is to hold the Australian government accountable for these breaches of women's rights.



The CEDAW Committee meets twice yearly to address specific topics in CEDAW and monitor individual countries progress. To aid the CEDAW Committee in its review, NGOs (non-government organisations) produce 'shadow reports', which provide an alternative source of information on domestic implementation of CEDAW. After considering a country's report the CEDAW Committee issues 'Concluding Comments' that outlines actions to improve implementation of CEDAW in that country.

Commission on the Status of Women (CSW)

The Commission on the Status of Women is a commission of the United Nations Economic and Social Council and is the principal technical body of the United Nations for the development of substantive policy guidance with regard to the advancement of women. Established in 1946, it is the principal global policy-making body dedicated to gender equality and advancement of women. The aim of the CSW is to prepare recommendations and reports to the Council on promoting women's rights in political, economic, civil, social and educational fields. Every year, representatives of Member States gather at United Nations Headquarters in New York to evaluate progress on gender equality, identify challenges, set global standards and formulate concrete policies to promote gender equality and women's empowerment worldwide.

UN Women

In July 2010, the United Nations General Assembly created UN Women, the United Nations Entity for Gender Equality and the Empowerment of Women. In doing so, UN Member States took an historic step in accelerating the organisation's goals on gender equality

and the empowerment of women.

The creation of UN Women came about as part of the UN reform agenda, bringing together resources and mandates for greater impact. It merged and built on the important work of four previously distinct parts of the UN system, which focused exclusively on gender equality and women's empowerment: Division for the Advancement of Women (DAW); International Research and Training Institute for the Advancement of Women (INSTRAW); Office of the Special Adviser on Gender Issues and Advancement of Women (OSAGI); and United Nations Development Fund for Women (UNIFEM). The main roles of UN Women are to support intergovernmental bodies such as CSW formulate policies, help Member States implement UN standards and hold the UN system accountable for its own commitments on gender equality.

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» 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*

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To learn more about women, violence, homelessness and poverty

When a woman is abused by her spouse, partner or other known or unknown person not only are her rights to life, liberty and security of person violated, but her rights to education and training, freedom of expression, freedom of movement and the right to participate freely in the cultural life of the community are often compromised or violated as well.

Violence against women can also be referred to as gender-based violence and is a worldwide pandemic of devastating proportions. One out of every three women will experience some form of violence in their lifetime and one in five women will experience some form of sexual assault.ⁱ Violence against women crosses all social, economic, cultural, religious, and political borders. Violence against women knows no geographical bounds; it is a problem in every country in the world. It is one of the least visible but most common forms of violence, and one of the most insidious violations of human rights. It has serious impacts on the health and wellbeing of those affected, and exacts significant economic costs on communities and nations. *"Gender based violence both reflects and reinforces inequities between men and women*

Violence against women is recognised by the UN as a violation of women's rights and a violation of their entitlement to freedom as a human being, with particular concern for equality, security, liberty, integrity and dignity in political, economic, social, cultural and civil life.ⁱ

ⁱ United Nations. (1993). op cit.

ⁱ Australian Bureau of Statistics. (2006) Personal Safety Survey 2006.

and compromises the health, dignity, security and autonomy of its victims. It encompasses a wide range of human rights violations ... Any one of these abuses can leave deep psychological scars, damage the health of women and girls in general, including their reproductive and sexual health, and in some instances, results in death."ⁱⁱ

Violence against women is defined by the United Nations (UN) in its Declaration on the Elimination of Violence Against Women as:

"any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life"ⁱⁱⁱ.

Domestic and Family Violence is a crime and *The Domestic and Family Violence Protection Act 2012* (Qld) provides legal protection from violent relationships. The preamble clearly states:

"Living free from violence is a human right and fundamental social value" and that "domestic violence is a violation of human rights that is not acceptable in any community or culture and traditional or cultural practices can not be relied upon to minimise or excuse domestic violence."

Specific forms of violence against women include but are not limited to:

- » **physical abuse:** slapping, hitting, kicking, strangling, hair pulling, pushing and beating
- » **sexual abuse:** rape and other forms of sexual coercion, unwanted sexual advances or harassment, forced prostitution and trafficking for the purposes of sexual exploitation
- » **emotional abuse:** name calling, playing mind games, intimidation, belittling, humiliation and put downs
- » **economic abuse:** preventing a woman from getting and or keeping a job, controlling family finances, not providing her with enough money to pay for essentials such as food, clothing, medications and utilities bills

ⁱⁱ UNFPA. (2007). Ending Widespread Violence Against Women. <http://unfpa.org/gender/violence.htm>.

ⁱⁱⁱ United Nations. (1993). *Declaration on the Elimination of all forms of Violence Against Women*. New York: United Nations.

Women often have a house but can't live there because it is not safe for them and their children.



- » **controlling behaviours:** isolating a woman from her family and friends, monitoring movements, or restricting access to information, assistance and other resources
- » **intimidation:** smashing things, destroying property, abusing pets and displaying weapons.

There are negative health consequences as well as significant financial impacts for women who have experienced violence which can continue to affect women for a considerable period of time. This places such women in a position of long-term economic vulnerability that can cast a shadow over the remainder of their lives^{iv}.

Research and statistics tell us that the perpetrators of violence against women are mostly men. However, the majority of men are not violent towards women and find violence against women; against their daughters, against their mothers, against their sisters abhorrent. But one of the most significant barriers we have is that too often violent behaviour against women is met with silence by other men. This means every single man has an active role to play in stopping violence against women.

Homelessness and Poverty

Women and children who experience domestic and family violence frequently lose a sense of having a 'home' even before the relationship ends. This is because women's sense of safety and belonging can be destroyed if they feel unsafe and are unable to conduct life normally at home. They may be unable to relax and invite friends and family around, carry out work or hobbies, go to bed at the time they want, cook the food they like, or have money to buy things for themselves and their home. Children can feel frightened and constrained; and may not receive the attention they need, or be able to have friends around to play or sleepover.

Domestic and family violence are the single largest

drivers of homelessness in Australia and affect a diverse group of women and children. The Specialist Homelessness Services Collection quarterly results consistently show domestic and family violence are the most common reason women and children present at specialist homelessness services seeking support^{vi}.

Women and children who are subjected to domestic violence are vulnerable to homelessness in two ways: first, because violence disrupts and violates the sense of safety and belonging that is associated with the home and second, because when women and children make the decision to leave a family violence situation, they are usually required to leave their homes. Relationships with family and friends are often severed in the process, and women can face social isolation, emotional trauma and acute economic disadvantage.

When women are forced to leave their homes they inevitably become poorer and their housing conditions deteriorate as they struggle to access private rental accommodation or public housing where, in both cases, demand is far greater than available supply.

Therefore, it is important to highlight that violence is a strong push factor which significantly contributes to women and children being forced into poverty and subsequently becoming homeless. Poverty has traditionally been defined as inadequate economic resources such as having enough money to pay for food, shelter, education and other basic necessities. However, poverty is also a state of having a lack of security, a limited range of available choices and not having a voice. It is not unusual for women to feel a sense of deep 'inner homelessness' and develop feelings of not being worthy, feel like they are no longer valued and begin to believe they have no real control over their life and situation. Poverty disempowers and strips women of their dignity, liberty, security and freedom and a lack of resources can deny them the opportunity to break the cycle of poverty.

Not only can violence force women and children into poverty, poverty itself can make it harder for women to find avenues of escape from an abusive relationship. While economic independence does not shield women from violence, having access to economic resources can enhance women's capacity to make meaningful choices. A woman who is economically dependent on her partner may see no viable way of supporting herself and her children.

Violence against women is a human rights violation that devastates the lives of women and children and places them at risk of poverty and homelessness.

Fears of poverty and financial insecurity are pivotal in women's decision making about leaving an abusive relationship.

^{iv} Campbell, R. (2011). *The Financial Cost of Domestic and Family Violence. Australian Domestic and Family Violence Clearinghouse*. Sydney: The University of New South Wales.

^v Evans, I. (2007). *Battle-scars: Long-term effects of prior domestic violence*. Centre for Women's Studies and Gender Research. Melbourne: Monash University.

^{vi} Australian Institute of Health and Welfare. (2013). *Specialist Homelessness Services Collection*. Canberra: Australian Government.

Women's Rights Fact Sheet

» 5 minutes is all it takes

To learn more about women, violence and health

The biggest risk factor for becoming a victim of sexual assault and or domestic and family violence is being a womanⁱ.

.....

Violence Against Women

Violence against women can also be referred to as gender-based violence and is a worldwide pandemic of devastating proportions. One out of every three women will experience some form of violence in their lifetime and one in five women will experience some form of sexual assaultⁱⁱ. Violence against women crosses all social, economic, cultural, religious, and political borders. Violence against women knows no geographical bounds; it is a problem in every country in the world. It is one of the least visible but most common forms of violence, and one of the most insidious violations of human rights. It has serious impacts on the health and wellbeing of those affected, and exacts significant economic costs on communities and nations.

"Gender based violence both reflects and reinforces inequities between men and women and compromises the health, dignity, security and autonomy of its victims. It encompasses a wide range of human rights violations ... Any one of these abuses can leave deep psychological scars, damage the health of women and girls in general, including their reproductive and sexual health, and in some instances, results in death."ⁱⁱⁱ

Violence against women is defined by the United Nations (UN) in its Declaration on the Elimination of Violence Against Women as:

"any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life"^{iv}.

ⁱ National Council to Reduce Violence Against Women and their Children. (2009). *The cost of violence against women and their children*. Canberra: Commonwealth of Australia.

ⁱⁱ Australian Bureau of Statistics. (2006). *Personal Safety Survey Australia*. Canberra: Commonwealth of Australia.

ⁱⁱⁱ UNFPA (2007). *Ending Widespread Violence Against Women*. <http://unfpa.org/gender/violence.htm>

^{iv} United Nations. (1993). *Declaration on the Elimination of Violence Against Women*. New York: United Nations.

Violence against women is recognised by the UN as a violation of women's rights and a violation of their entitlement to freedom as a human being, with particular concern for equality, security, liberty, integrity and dignity in political, economic, social, cultural and civil life^v.

Domestic and Family Violence is a crime and *The Domestic and Family Violence Protection Act 2012* provides legal protection from violent relationships. The preamble clearly states:

"Living free from violence is a human right and fundamental social value" and that "domestic violence is a violation of human rights that is not acceptable in any community or culture and traditional or cultural practices can not be relied upon to minimise or excuse domestic violence."

Specific forms of violence against women include but are not limited to:

- » **physical abuse:** slapping, hitting, kicking, strangling, hair pulling, pushing and beating
- » **sexual abuse:** rape and other forms of sexual coercion, unwanted sexual advances or harassment, forced prostitution and trafficking for the purposes of sexual exploitation
- » **emotional abuse:** name calling, playing mind games, intimidation, belittling, humiliation and put downs
- » **economic abuse:** preventing a woman from getting and or keeping a job, controlling family finances, not providing her with enough money to pay for essentials such as food, clothing, medications and utilities bills
- » **controlling behaviours:** isolating a woman from her family and friends, monitoring movements, or restricting access to information, assistance and other resources
- » **intimidation:** smashing things, destroying property, abusing pets and displaying weapons.

There can be significant health impacts for women who have experienced violence and they can continue to affect women for a considerable period of time.

Research and statistics tell us that the perpetrators of violence against women are mostly men. However, the majority of men are not violent towards women and find

^v United Nations 1993 ibid

A recent longitudinal study found that women affected by intimate partner violence faced higher health costs than women with no history of intimate partner violence, not only during the period of abuse but for three years after the violence endedⁱ.

ⁱ Fishman, P.A., Bonomi A.E., Anderson M.L., Reid R.J. & Rivara F.P. (2010). Changes in health care costs over time following the cessation of intimate partner violence. *Journal of General Internal Medicine*, vol. 25 n.9, pp 920-925.



violence against women; against their daughters, against their mothers, against their sisters abhorrent. But one of the most significant barriers we have is that too often violent behaviour against women is met with silence by other men. This means every single man has an active role to play in stopping violence against women.

The health impacts of violence against women

Fatal consequences

Studies from countries around the world (including Australia) show that when women are killed by their male intimate partners it is frequently in the context of an ongoing abusive relationship^{vi}.

Fifty five per cent of female homicide victims in Australia were killed by their male intimate partners compared to eleven per cent of male homicide victims^{vii}.

A study of intimate partner homicides over a thirteen year period (1989–2002) finds an average of seventy seven homicides occur each year in Australia. The majority of these (75 per cent) involve males killing female intimate partners^{viii}. Recent figures confirm this pattern. For 2007–08, eighty people were killed as a result of intimate partner violence. Of these, the majority (78 per cent) were females^{ix}. While recent statistics for

^{vi} WHO. (2002) *World Health Report on Violence and Health*. Geneva: World Health Organization.

^{vii} Virueda, M. & Payne, J. (2010). *Homicide in Australia: 2007–08 National Homicide Monitoring Program Annual Report, AIC Monitoring Report no. 13*. Canberra: Australian Institute of Criminology.

^{viii} Mouzos, J. and Rushforth, C. (2003) *Family homicide in Australia*. Trends and Issues in Crime and Criminal Justice, no. 255, Canberra: Australian Institute of Criminology.

^{ix} Virueda, M. & Payne, J. 2010, op cit.

Queensland show one in four murders can be attributed to domestic violence^x.

Non-fatal consequences – physical and mental health

The non-fatal consequences of violence against women are far-reaching due to the length of time that women endure such experiences before they seek help (if ever). The **health consequences of violence** can persist long after violent episodes have occurred^{xi}.

Violence against women is a significant public health problem. Women affected by violence experience more ill health than women without a history of violence in their lives^{xii}.

Violence can cause immediate physical injuries like bruises, welts, fractures and eye damage. Other health consequences that can be attributed to a woman who has experienced violence are chronic pain syndromes, permanent disabilities, gastrointestinal disorders, gynaecological disorders, sexually transmitted infections and HIV, and unwanted pregnancies^{xiii}.

Women who have experienced violence are at an increased risk of experiencing stress, anxiety, depression, phobias, sexual dysfunction, flashbacks, nightmares, eating disorders, sleep disorders, panic disorders, suicidal behaviour, low self-esteem, traumatic and post-traumatic stress disorders and self-harming behaviours^{xiv}. Women are also at risk of seeing themselves as worthless and as a devalued person and viewing the world as an unsafe and dangerous place.

Women's exposure to violence is strongly associated with the adoption of risk behaviours that can further affect health, such as problematic substance use, alcohol abuse, physical inactivity and cigarette smoking^{xv}.

The more severe the violence, the greater the impact on women's physical and mental health. In addition, the different types of violence inflicted upon women and the frequency of their occurrence appear to have cumulative effects over time^{xvi xvii}.

Women affected by violence need more operative surgeries and spend more time visiting doctors and staying in hospitals than women without a history of

^x Passmore, D. and Weston, P. (2011). *New investigative unit will reopen cases after coroner fears hidden domestic violence death toll*. Brisbane: The Sunday Mail, at <http://www.couriermail.com.au/news/queensland/new-investigative-unit-will-reopen-cases-after-coroner-fears-hidden-domestic-violence-death-toll/story-e6freoof-1226060294225>

^{xi} WHO. (2002). *World Health Report on Violence and Health*. Geneva: World Health Organization.

^{xii} WHO. (2002) *ibid*

^{xiii} WHO. (2002) *ibid*

^{xiv} WHO. (2002) *ibid*

^{xv} WHO. (2002) *ibid*

^{xvi} Evans, I. (2007). *Battle-scars: Long-term effects of prior domestic violence*. Centre for Women's Studies and Gender Research, Melbourne: Monash University.

^{xvii} Taft, A. (2003). *Promoting women's mental health: the challenge of intimate partner/domestic violence. Issues Paper no. 8*. Sydney: Australian Domestic and Family Violence Clearing House.

intimate partner violence^{xviii}. They are also more likely than other women to use medication for depression^{xix}.

Violence during pregnancy is associated with miscarriage, late entry to prenatal care, stillbirth, premature labour and birth, foetal injury, and low birth weight^{xx}. Young women exposed to violence are more likely to have a miscarriage, stillbirth, premature birth or abortion than young women who are not^{xxi}.

Children are impacted by violence too. The effects on children are both direct and indirect. Children can find themselves living with the damaging impacts of violence on their mothers or female caregivers. They can also directly experience the physical and mental health consequences of their exposure to violence.

Ending violence against women is part of the struggle to ensure safety and justice for all.

Financial Consequences

It is difficult to place a monetary value on the harm caused by violence against women but it is important to recognise that there are financial costs to the woman and the wider community such as: loss of earnings; loss of future earning capacity and productivity; medical expenses; intangible costs (loss of quality of life, pain and suffering) and counselling expenses. Some of the costs to the community can be an increased demand and use of government services such as the justice system, health services, policing and corrections, victim compensation, and provision of specialised services such as women's domestic violence shelters. The impacts of violence against women go beyond the individual, to have a collective impact on the social wellbeing of our communities^{xxii} ^{xxiii}.

This fact sheet has been adapted from: Vic Health. (2011). Preventing Violence Against Women in Australia, Research Summary. Carlton: Victorian Health Promotion Foundation.

^{xviii} WHO. (2002). op cit.

^{xix} VicHealth. (2011). *Preventing Violence Against Women in Australia, Research summary*. Carlton: Victorian Health Promotion Foundation.

^{xx} WHO. (2002). op cit.

^{xxi} Taft, A. (2003). *Promoting women's mental health: the challenge of intimate partner/domestic violence. Issues Paper no. 8*. Sydney: Australian Domestic and Family Violence Clearing House.

^{xxii} Office for the Status of Women (2004). *The Cost of Domestic Violence to the Australian Economy: Part 1. Canberra: Commonwealth of Australia*.

^{xxiii} Boyd, C. (2011). The impacts of sexual assault on women, Australian Centre for the Study of Sexual Assault, ACSSA Resource Sheet. Melbourne: Australian Institute of Family Studies.

Women's Rights Fact Sheet

» 5 minutes is all it takes To learn more about violence against women

'Violence against women and girls continues unabated in every continent, country and culture. It takes a devastating toll on women's lives, on their families, and on society as a whole. Most societies prohibit such violence – yet the reality is that too often, it is covered up or tacitly condoned.'

UN Secretary-General Ban Ki-Moon, 8 March 2007



The impacts of violence against women are felt by all Australians, directly or indirectly, through their families, communities and the broader social and economic landscape, and are a significant cost driver across different systems including homelessness, child protection, health and justice.

Violence against women can result in social, psychological, health and financial consequences that have profound impacts on the quality of life of people directly affected by it. For many the consequences of violence may be felt for many years and may require ongoing support. In addition to the direct effects on victims, their children, their families and friends, employers and co-workers, there are also significant flow-on effects that impact local communities and reach wider society. These effects may include direct or indirect economic costs such as the costs to the community of bringing perpetrators to justice; the costs

of medical treatment and support; the costs of housing services for victims; and productivity loss due to absence from work. However, given that a substantial proportion of violent incidents go unreported, it is difficult to measure the true extent of these impacts.

Specific forms of violence against women include but are not limited to: physical violence; sexual abuse; emotional abuse; verbal abuse and intimidation; economic and social deprivation; damage of personal property; and abuse of power. Violence against women and in particular domestic violence is the ongoing pattern of behaviour by one partner to control the other through fear, such as the use of violent and threatening behaviours, and occurs between people who are in, or have been in, an intimate relationship.

Behaviour associated with violence against women may range in intensity and frequency from relatively minor incidents to serious offences that may occur once or have a cumulative effect over the course of time.

Violence against women is defined by the United Nations (UN) in its *Declaration on the Elimination of Violence Against Women* as:

"any act of gender based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life"

The following is a list of potential violent acts and behaviours but is not an exhaustive list.

Physical assault and abuse: actual or threatened, causing pain, injury and/or fear that can be a single incident or a series of incidents that are located on a continuum of behaviours and can include:

- » direct assault on the body (strangulation, shaking, eye injuries, slapping, pushing, spitting, punching, or kicking)
- » actions leading to disablement or murder
- » use of weapons including objects
- » assault or neglect of children
- » sleep and food deprivation.

Sexual assault and abuse: can be actual or threatened, and can be a single incident or a series of incidents that are located on a continuum of behaviours from sexual harassment to life-threatening rape perpetrated by an

intimate partner, ex-partner or other known or unknown person. The following is a list of potential sexual assault and abuse acts but is not an exhaustive list:

- » rape
- » marital rape
- » indecent assault
- » any form of pressured and unwanted sex
- » any form of sexual degradation or humiliation
- » non-consensual sexual acts
- » causing pain during sex
- » assaulting genitals
- » forcing or coercing a person to have sex without protection against pregnancy or sexually transmitted disease
- » making the victim perform sexual acts unwillingly (including taking explicit photos and or videos)
- » sexting and distributing digital images taken without consent
- » forced viewing of pornography
- » sexual harassment
- » stalking.

Psychological abuse: involving manipulative behaviour to coerce, control or harm and can include:

- » denying a person's reality
- » unfairly blaming a person for adverse events or making them feel they are a problem
- » constant comparisons with other people, which work to lower confidence and self-worth
- » driving dangerously with the intent to incite fear or cause harm to another person
- » making threats regarding custody of, or access to, any children
- » acts intended to control an individual
- » asserting that the police and justice system will not assist, support or believe the victim should they seek assistance or report abuse.

For individuals in same-sex relationships: abusive partners can rely on homophobia or heterosexism as a tool to control their partner. This type of abuse can involve 'outing' or threatening to 'out' their partner to friends, family, police, church or employer, telling their partner that:

- » they will lose custody of their children as a result of being 'outed'
- » the police or the justice system will not assist because the legal justice system is homophobic
- » the abusive behaviour is normal within gay relationships and convincing the abused partner that they do not understand lesbian or gay relationships and sexual practices because of heterosexism (Chan 2005).

Emotional abuse can include:

- » blaming a person for all of the problems in the

relationship

- » constantly comparing the victim with others to undermine self-esteem and self-worth
- » emotional blackmail.

Verbal abuse: actual or threatened, in private or in public (including through electronic means) and can include:

- » acts designed to humiliate, degrade, demean, intimidate, or subjugate
- » threat of physical violence
- » swearing and verbal attacks that focus on intelligence, sexuality, body image and capacity.

Economic abuse: actual or threatened, including:

- » deprivation of basic necessities
- » seizure of income or assets
- » withholding or controlling, against a person's will, their access to money, food, clothes and personal items such as car keys, phone or personal identification documents, for example passports and birth certificates.
- » unreasonable denial of the means necessary for participation in social life
- » control of money or financial resources/information, including:
 - preventing access to bank accounts;
 - providing an inadequate 'allowance';
 - not allowing the victim to seek or hold employment; and
 - using all wages earned by the victim for household expenses.

Social abuse: actual or threatened, through forced isolation from family or friends and can include:

- » control of all social activity
- » deprivation of liberty
- » deliberate creation of unreasonable dependence
- » systematic isolation from family and friends through techniques such as ongoing rudeness to family and friends to alienate them
- » instigating and controlling the move to a location where a person has no established social circle or employment opportunities
- » forbidding or physically preventing a person from leaving the home and meeting people.

Property damage actual or threatened, including:

- » damage to an individual's personal or shared property
- » damage to the property of children, friends and/or parents
- » violence towards pets.

Harassment or stalking actual or threatened, such as:

- » constant phone calls/texting to a workplace or home
- » repeated visits to a workplace or home

“We all know in our heads and our hearts that every woman is entitled to a life free of violence. Let’s make that a reality”

Nicole Kidman
UNIFEM Goodwill Ambassador



- » bullying
- » monitoring and surveillance
- » cyber-stalking.

Spiritual abuse actual or threatened, denial and/or misuse of religious beliefs or practices to:

- » force victims into subordinate roles
- » misuse of religious or spiritual traditions to justify physical violence or other forms of abuse.

Violence against women is never caused, invited or deserved by the victim. Everyone has the right to live safe and free from violence, regardless of what they do or say.

Research and statistics tell us that the perpetrators of violence against women are mostly men. However, the majority of men are not violent towards women and find violence against women; against their daughters, against their mothers, against their sisters abhorrent. But one of the most significant barriers we have is that too often violent behaviour against women is met with silence by other men. This means every single man has an active role to play in stopping violence against women.

This fact sheet has been adapted from:

Australian Bureau of Statistics. (2013). *Defining the Data Challenge for Family, Domestic and Sexual Violence, Australia 2013: A conceptual Data Framework*. Canberra: Commonwealth of Australia.

Women's Rights Fact Sheet

» 5 minutes is all it takes

To learn more about women and reproductive health rights

The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violenceⁱ.

.....

Reproductive health can be described as a state of complete physical, mental and social wellbeing in all matters relating to the reproductive system and its functions and processes. Reproductive health therefore implies that people are able to have a responsible, satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how to do soⁱⁱ.

Reproductive health rights encompass many areas of basic human rights. The right to health and health care, the right to information, the right to life, the right to live free from discrimination and the right to privacy are all inherent in comprehensive access to reproductive health rights.

There are also many other aspects to this broad area of health rights, including access to good maternity care, sexual health services, contraception and sexuality education. Health rights should also include access to safe and legal abortion – arguably the most contested of sexual and reproductive health rights for women.

For a woman to have control over her life, she must be able to choose if and when she has children. The possibility of an unplanned pregnancy is a reality women face throughout their reproductive years and can have significant health consequences potentially impacting all aspects of a woman's life including her financial situation, employment, mental and physical health and relationships. There is no contraceptive method that is 100% effective and not all new contraceptive products

ⁱ United Nations. (1995). *Beijing Declaration and Platform for Action, Adapted at the 16th plenary meeting*. Beijing: Fourth World Conference on Women.

ⁱⁱ United Nations Population Fund. (1995). *Report on the International Conference on Population and Development: Programme of Action*. New York: United Nations.

are readily available in Australiaⁱⁱⁱ. Accessibility to safe and affordable abortion services ensures the rights of women to reproductive self-determination.

In Australia a woman's right to lawful abortion is determined by which state or territory she lives in.



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Abortion and Criminal Codes in Australia

Statutory provisions in many Australian states and territories, are based on 19th Century English legislation (since repealed and replaced in the UK), and identify abortion as a crime. This crime can be committed either by the woman or by the person performing the abortion. The Australian Capital Territory (ACT) is the only Australian state or territory which does not refer to abortion in its criminal code. The ACT explicitly allows abortion 'without restriction as to reason' at all stages of pregnancy^{iv}.

The location of abortion within criminal codes has meant it has received little serious attention in health policy development, or in the planning and co-ordination of service delivery. As a result, service provision is patchy and inequitable, with a serious under-supply of public sector services, due in part to

ⁱⁱⁱ Marie Stopes International Australia. (2008). *Real Choices: Women, Contraception & Unplanned Pregnancy*. Melbourne: Marie Stopes International Australia.

^{iv} Office of Parliamentary Counsel. (1995). *Criminal Code Act 1995*. Canberra: Commonwealth of Australia.

The decision whether or not to bear a child is central to a woman's life, to her well-being and dignity. When the government controls that decision for her, she is being treated as less than a full adult human responsible for her own choices.

Justice Ruth Bader Ginsburg



legal uncertainties. The current under supply and difficult access to services is more likely to negatively impact the most vulnerable and disadvantaged Australian women^v.

Eighty five per cent of surveyed Australian General Practitioners believed women should have access to termination services further strengthening the argument that abortion should be lawful if undertaken with the consent of the woman and by a medical practitioner.^{vi} It is clear that the current legislation for abortion is inappropriate, out-dated, inconsistent and in need of reform.

The legal status of abortion in Queensland

The *Queensland Criminal Code* 1899, sections 224,

^v Taft, A. J., Watson, L. F., & Lee, C. (2004). *Violence against young Australian women and association with reproductive events: a cross sectional analysis of a national population sample*. Australian and New Zealand Journal of Public Health, 28(4), 324-329.

^{vi} Marie Stopes International Australia. (2004). *General Practitioners: Attitudes to Abortion*. Melbourne: Marie Stopes International Australia.

225 and 226 state that abortion is a criminal offence. Section 282 of the *Queensland Criminal Code* attempts to define a lawful abortion by stating that a person is not criminally responsible for performing a surgical operation or medical treatment if the purpose of the procedure is to preserve the life of a person or to prevent a serious threat to their physical or mental health. Rape and acts of incest are not sufficient grounds for a legal abortion in Queensland. That is, termination is allowed where the medical practitioner reasonably believes it is necessary to preserve the woman from a serious danger to her life or her physical or mental health (beyond the normal dangers of pregnancy and childbirth)^{vii}.

It is argued that it is degrading and an insult to the intelligence of a woman to have the decision on whether she will become a mother imposed on her by law, or by a panel, or a doctor, or a priest, and then left to carry out the responsibility of that imposed decision. Repressive laws such as these generate beliefs that women are not capable of making well informed decisions. Issues such as abortion are the measuring sticks by which we can gauge a government's attitude to women and the status of women^{viii}.

In Queensland today

- » access to abortion services is limited as there is only a very small number of private providers delivering abortion services with limited opportunity to access an abortion in public hospitals
- » women on low fixed incomes and those living in rural, regional and remote areas of Queensland have very limited access to abortion services due to cost, distance and travel
- » currently there is no clear policy or guidelines around the provision of, and access to, abortion services within public health services in Queensland.
- » providing and accessing abortion is still a criminal offence.

Women's Rights and Abortion

The ability for a woman to access safe and low cost abortion is first and foremost a human rights and social justice issue. Current abortion provisions in Australian Criminal Codes are a clear breach of Australia's international obligations under the *Convention on the Elimination of all Forms of Discrimination Against Women* (CEDAW) of which Australia is a signatory.

Several articles within CEDAW imply a right to abortion, however, Article 12 is most relevant:

^{vii} Office of the Qld Parliamentary Counsel. (1899). *Criminal Code Act 1899*. Brisbane: Queensland Government.

^{viii} Holmes, B. (n.d.). *Publications*. Retrieved April 21, 2013, from Australian Institute of Criminology: http://www.aic.gov.au/media_library/publications/proceedings/16/holmes.pdf

Article 12

1. States Parties shall take all appropriate measures to eliminate all discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this Article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

CEDAW is a legally binding international agreement yet so far has failed to sufficiently address the issue of women's access to legal and safe abortions.

Australia is also a signatory to the *Universal Declaration of Human Rights* (UDHR). Unlike CEDAW the UDHR treaty is **not** legally binding, however, it is the most fundamental international document on human rights, and in the years since its proclamation it has served as a moral compass for the world. It is argued that a woman who finds herself with an unplanned pregnancy loses her rights in Articles 1, 3, 12, 18 and 23. That is women are unable to exercise their reason and conscience; they do not have liberty and security of person; they suffer arbitrary interference to their privacy and family and their right to work or their free choice of employment can be negatively impacted^x.

International Opinion

Given the ongoing criminality of abortion United Nations Special Rapporteur for Health, Anand Grover, released a report examining the interaction between the right to health and criminal laws as they relate to sexual and reproductive health. The report states that the right to sexual and reproductive health are fundamental to the right to health. It also outlines that criminal and other legal restrictions on abortion violate the right to health and may interfere with a woman's ability to fully realise human dignity. Grover identified that dignity requires individuals be free to make personal decisions without interference from the State, especially in an area as important and intimate as sexual and reproductive health.

Given the physiology of human reproduction and the gendered social, legal and economic context in which sexuality, fertility, pregnancy and parenthood occur the report argues women are more likely to experience violations of their right to sexual and reproductive health. Persistent stereotyping of women's roles within society and the family establish and fuel societal norms. The report strongly advocates for the decriminalisation

^{ix} Holmes, B. (n.d.), *ibid*

“When it comes to a woman’s health, no politician should get to decide what’s best for you. The only person who should get to make decisions about your health is you.”

President Barack Obamaⁱ.

ⁱ Hartman, R. R. (2013). *Obama says Planned Parenthood is 'not going anywhere'*. Yahoo News.



of abortion^x. The criminalisation of abortion has also been identified as a concern by the United Nations Committee on Economic, Social and Cultural Rights and the United Nations Committee on the Rights of the Child^{xi}.

To consistently support human rights, we must firstly campaign for a world in which women are not imprisoned by a culture that dictates that their 'natural' and primary role is to be mothers and secondly that the control of women's bodies must be returned to women and removed from the hands of politicians and other influential decision makers. Women must have reproductive autonomy, that is the right to make decisions concerning their reproductive health free of discrimination, coercion and violence.

^x Grover, A. (2011). *Right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. New York: United Nations.

^{xi} UN Women. (2011). *2011-2012 Progress of the World's Women: In Pursuit of Justice*. New York: UN Women

Women's Rights Fact Sheet

» 5 minutes is all it takes

To learn more about women, sexual assault and abuse

Sex discrimination in employment, sexual assault, rape and domestic and family violence are now all considered human rights violations by the international community which means governments bear the responsibility to protect women from, and respond appropriately to, these violations.

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Sexual assault is perhaps one of the most serious, core components of sexual violence. Sexual assault is a public health matter with potential human, economic and public health related costsⁱ and attracts criminal justice sanctionsⁱⁱ.

Sexual assault offences are often under-reported and unrecorded, making it difficult to measure the prevalence of sexual assault in the community. The available evidence suggests that most victims of sexual violence do not report the crime to police, and that many do not access the services available to provide support.

Women who have been sexually assaulted are at risk of being killed by the perpetrator of the assault, experiencing significant stress-related symptoms, and increased detrimental health effects (physical, emotional, mental health)ⁱⁱⁱ.

Sexual assault and abuse: can be actual or threatened, and can be a single incident or a series of incidents that are located on a continuum of behaviours from sexual harassment to life-threatening rape perpetrated by an intimate partner, ex-partner or other known or unknown person. The following is a list of potential sexual assault and abuse acts but is not an exhaustive list:

- » rape
- » marital rape
- » indecent assault
- » any form of pressured and unwanted sex
- » any form of sexual degradation or humiliation

ⁱ Carmody, M. (2009). *Conceptualising the prevention of sexual assault and the role of education Australian Centre for the study of sexual assault (ACSSA) Issues No. 10*. Australian Institute of Family Studies (AIFS): Melbourne

ⁱⁱ National Council to Reduce Violence against Women and their Children. (2009). *The cost of violence against women and their children*. Department of Families, Housing, Community Services & Indigenous Affairs (FaHCSIA): Canberra.

ⁱⁱⁱ Wall, L. (2012). *Asking women about intimate partner sexual violence, ACSSA Resource Sheet*. AIFS: Melbourne.

Sexual assault and rape is a crime whether it occurs in public or in private.

- » non-consensual sexual acts
- » causing pain during sex
- » assaulting genitals
- » forcing or coercing a person to have sex without protection against pregnancy or sexually transmitted disease
- » making the victim perform sexual acts unwillingly (including taking explicit photos and or videos)
- » sexting and distributing images taken without consent
- » forced viewing of pornography
- » sexual harassment
- » stalking

Evidence suggests that women, are primarily assaulted by people they know, such as by partners, friends, colleagues and acquaintances, and often in contexts of trust and familiarity^{iv}. Sexual violence can also be a form of abuse perpetrated as part of ongoing domestic and family violence. Sexual assault can affect anyone and knows no geographical, socioeconomic, age, ability, cultural or religious boundaries and can happen in private or in public spaces.

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Laws on sexual violence in Queensland

The sections of the *Queensland Criminal Code* which cover various sexual offences against adults are grouped together as follows:

- » Section 349 of the *Queensland Criminal Code* deals with rape and defines it as follows:
 - carnal knowledge (sexual intercourse) without consent
 - penetration of the victim's vulva, vagina or anus to any extent with a thing or any body part without consent (an example of this may be inserting a finger, stick or bottle)

^{iv} Clark, H & Quadara, A. (2010). *Insights into sexual assault perpetration and giving voice to victim/survivors' knowledge, ACSSA Research Report No 18*. AIFS: Melbourne.

- penetration of the victim’s mouth by a penis without consent.

Rape by a partner and rape in marriage has been a crime in Queensland since 1989.

- » Section 350 of the *Queensland Criminal Code* deals with attempted rape.
- » Section 352 of the *Queensland Criminal Code* deals with the general category of sexual assault. Other types of sexual violation which do not fit the definition of rape in Section 349 may be an offence in Section 352. This section includes:
 - unlawful or indecent assault (an example of this may be touching a woman’s breasts)
 - procurement of another person without their consent to commit or witness an act of gross indecency (an example of this would be when a man exposes his penis to a person then invites them to have oral sex).
- » Consent is defined in section 348 of the *Queensland Criminal Code* as “consent freely and voluntarily given by a person with the cognitive capacity to give such consent.” Consent is not deemed to be freely and voluntarily given if it is obtained by:
 - force
 - threat or imitation
 - fear of bodily harm
 - exercise of authority
 - false and fraudulent representations about the nature or purpose of the act (an example of this may be a health professional inserting an instrument into a woman’s vagina and pretending it is necessary when it is really about sexual gratification)
 - a mistaken belief induced by the accused person that they were the victim’s sexual partner
- » Incest is covered by Section 222 of the *Queensland Criminal Code* where a person commits incest if they have carnal knowledge (sexual intercourse) of their children or another lineal descendant including brother, sister, parent, grandparent, uncle, aunt, nephew or niece. Carnal knowledge in half, adoptive or step relationships is also defined as incest.
- » There are separate offences against intellectually impaired persons including Section 208 of the *Queensland Criminal Code* covering sodomy and Section 216 covering carnal knowledge (sexual intercourse and indecent treatment).
- » Sexual offences against children are set out in Section 208, 210, 215 and 229b of the *Queensland Criminal Code*.

Law on drink spiking in Queensland

The crime of ‘drink spiking’ is described in Section 316A of the *Queensland Criminal Code* as “A person who administers, or attempts to administer, in drink a substance to another person (the other person) without

the other person having knowledge of the substance with intent to cause the other person to be stupefied or overpowered”.

The substance referred to can be alcohol, a drug or another substance. The act of drink spiking is unlawful whether the drink is swallowed partly, wholly or not at all. The act of drink spiking is unlawful, even without intent to commit a further offence such as sexual assault.

Sexual violence affects a large proportion of the population – with the majority of those directly experiencing such violence being women and the majority perpetrating it being men. The harm they cause can last a lifetime and span generations, with serious adverse effects on health, education and employment^v.

Sexual Violence and Women’s Rights

Violence against women is recognised by the United Nations as a violation of women’s rights and a violation of their entitlement to freedom as a human being, with particular concern for equality, security, liberty, integrity and dignity in political, economic, social cultural and civil life^{vi}.

Sexual violence infringes on women’s reproductive rights, particularly the right to bodily integrity and the right to control their sexuality and reproductive capacity. Sexual violence also threatens women’s right to health, not only physical health but also psychological, reproductive and sexual health.

Turn your smart phone into a safety device

With the push of a button you can alert selected contacts that you are in danger and share your current location. Some apps allow real time GPS tracking, can trigger a fake call to provide you with an opportunity to remove yourself from an uncomfortable situation or quickly and easily notify family and friends when feeling unsafe or in case of an emergency. Check out these apps and others in your app store, read the reviews and decide which app best suits you.

- » Safety 4 U 24-7
- » Circle of 6

Sexual assault is a violation of basic human rights.

^v WHO. (2010). *Preventing intimate partner and sexual violence against women: Taking action and generating evidence*. Geneva: World Health Organisation.

^{vi} United Nations. (1993). *Declaration for the Elimination of Violence Against Women*. New York: United Nations.

Women's Rights Fact Sheet

» 5 minutes is all it takes

To learn more about reporting a breach of human rights

Reporting a breach of human rights

Human rights protect everyone from unjust and inhumane treatment. If a person feels their rights have been breached they can, if safe and appropriate to do so, raise their concerns directly with those responsible, for example an employer. People can also raise human rights issues and make complaints to bodies like the Human Rights and Equal Opportunity Commission, State and Territory human rights agencies or an appropriate Ombudsman.

The Australian Human Rights Commission

The Australian Human Rights Commission (HREOC) is an independent third party which investigates complaints about discrimination and human rights breaches. The complaint process is **simple, free** and **flexible**.

The Commission can investigate complaints of discrimination, harassment and bullying based on a person's:

- » **Sex:** including pregnancy, marital status, family responsibilities and sexual harassment
- » **Disability:** including temporary and permanent disabilities; physical, intellectual, sensory, psychiatric disabilities, diseases or illnesses; medical conditions; work related injuries; past, present and future disabilities; and association with a person with a disability
- » **Race:** including colour, descent, national or ethnic origin, immigrant status and racial hatred
- » **Age:** including young people and older people
- » **Employment:** sexual preference, criminal record, trade union activity, political opinion, religion or social origin

The Commission can also investigate complaints about alleged breaches of human rights against the Commonwealth and its agencies.

HEREOC's Complaint Information Service

Many complaints begin with a phone call to HREOC's Complaints Information Service. This is an important

first step in determining whether or not a complaint is covered by the law and identifying the most appropriate agency to direct the complaint to. HREOC staff can make referrals to other agencies if appropriate.

State and Territory human rights agencies

Each state and territory has a human rights agency that can also receive complaints about human rights breaches.

- » Anti-Discrimination Board of New South Wales
- » Victorian Equal Opportunity and Human Rights Commission
- » Anti-Discrimination Commission Queensland
- » Equal Opportunity Commission Western Australia
- » Equal Opportunity Commission of South Australia
- » Office of the Anti-Discrimination Commissioner, Tasmania
- » Northern Territory Anti-Discrimination Commission
- » Australian Capital Territory Human Rights Commission

Information and advice about discrimination and human rights breaches can also be obtained by contacting a community legal service.

Women who have experienced violence

It can be a difficult decision to report an act of violence to the police. Some women choose not to report or may not report straight away for reasons important to them. Women can walk into a police station or make contact with police over the phone and ask to report a crime. As well as assisting with taking statements police can provide information and referrals to services which can offer further assistance such as counselling and legal support.

Most State Governments in Australia have a government assistance scheme for victims of crime. In Queensland women who have been injured as a result of an act of violence may be eligible for financial assistance as outlined in the *Victims of Crime Assistance Act 2009*. For further information women can contact Victim Assist Queensland.

Women's Rights Fact Sheet

» 5 minutes is all it takes

To learn more about what you can do to eliminate violence against women

Act or Do Nothing?

Small Action = Big Results

Eliminating Violence Against Women can often feel overwhelming but there are many small things you can do that will make a difference.

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Micro-giving, that is small acts of giving, can assist to provide basic needs like food, clothing, safety, and shelter to women who have experienced violence. Small acts of giving can also contribute to the delivery of essential services such as: individual therapy; therapeutic group work; enabling peer support; and specialised health services at The Women's Centre. You can make a real and significant change in the world through micro-giving and your small donation could change a woman's life. You also have the power to make a difference by learning more about violence against women and encouraging others to take personal responsibility to put into practice non-violent ways of thinking, behaving and living.

- » 'Like' *The Women's Centre Townsville* Facebook page and follow what is happening at the centre and check out our web page: thewomenscentre.org.au.
- » To end the silence about violence learn more about violence against women and start conversations with family, friends and colleagues with opening questions such as ... "Did you know that 1 in 3 women experience violence in their lifetime?" "Did you know there are significant health costs and consequences to women and children who have experienced violence?" "Did you know that any form of assault or experience of violence is a breach of a woman's lawfully recognised and legally enforceable human rights?"
- » Donate money to The Women's Centre to enable important programs such as Playgroup to continue. \$20 pays for a fruit platter while \$100 covers the cost of our Early Childhood Worker for three hours. Donations can also support the costs of therapeutic group work for women who have experienced

domestic and family violence. Go to our website thewomenscentre.org.au and click on 'Support Us' to make your tax deductible financial donation.

- » Support women to access pregnancy options support, information and counselling by making a financial donation to The Women's Centre.
- » Don't let your mobile phone go to landfill or gather dust in a drawer. Proactively address the e-waste epidemic by recycling your mobile phone. Drop your old phones into The Women's Centre and know that you are diverting your phone from landfill and will be raising money for The Women's Centre.
- » Put together care packs in bags for women and children and drop them off at The Women's Centre. Include good quality items such as bottles of shampoo and conditioner, soap, body wash, deodorant, face wipes, moisturiser, toothbrush and toothpaste, underwear, non-perishable food items, baby wipes, nappies and cuddly toys and activities for children.
- » Donate boxes of nappies in all sizes.
- » Buy pre-packaged frozen and shelf life complete meals for women and children who are homeless as a result of escaping domestic and family violence.
- » Donate gift vouchers and movie tickets to support our Christmas hamper and gift giving efforts each year.
- » Talk about violence against women at work and find out if your work place has a Domestic Violence Policy? See *Everyone's business: A guide to developing workplace programs for the primary prevention of violence against women* for a policy template http://whv.org.au/static/files/assets/e58154fe/Everyones_Business_guide.pdf
- » Contact The Women's Centre and ask for the one page Fact Sheet on **Thursdays in Black** a day where people around the world are invited to wear black as a symbol of strength and courage, representing our solidarity with victims of violence, and demanding a world without rape and violence. Thursdays in Black T-Shirts are available for sale.
- » 'Like' pages on Facebook such as: *UN Women Australia, Collective Shout, DV Connect, SayNO Unite to End Violence Against Women*.
- » At the beginning of each school year purchase a back to school pack containing: pencils, rulers, and

other appropriate stationery items and if you can include a gift card to assist with purchasing items like shoes, socks and school uniforms and drop it in to The Women's Centre.

- » Be a positive role model and use non-violent language and communication skills at home and at work. Look for resources on non-violent communication at cnvc.org.
- » Men can take a stand against violence and wear a white ribbon on November 25 as a personal pledge that demonstrates they do not excuse violence against women. Men can also visit the My Oath Campaign website and swear! myoath.com.au
- » Create a work and or personal email signature that makes a statement about violence against women such as "I commit to eliminating violence against women. What about you?" and while you are at it include it on your business card.
- » Attend an event that raises awareness about violence against women such as: International Women's Day March 8, Candlelight Ceremony in May and Reclaim the Night held every year on the last Friday in October.
- » Work and community notice boards are great platforms for promoting information about the issues surrounding violence against women. Fact sheets can also be included in regular newsletters or pamphlets. A number of organisations have produced fact sheets that can be used, or with permission, adapted for your local situation. For example:
 - White Ribbon Day Australia has produced a series of 14 fact sheets. These can be accessed in the 'Resources' section of their website whiteribbonday.org.au
 - the Queensland Centre for Domestic and Family Violence Research has produced some excellent fact sheets which can be accessed in the 'Resources' section of their website noviolence.com.au
 - Stopping Violence Against Women Before it Happens: A practical toolkit for communities, National Rural Women's Network nrwn.org
 - The Women's Centre has fact sheets and brochures that can be accessed in the 'About Us' section of the website womenscentre.org.au

Ending violence
against women is
part of the struggle
to ensure safety
and justice for all.



Women's Rights Fact Sheet

» Fact Sheet 11

Resources and toolkits

The following list of resource guides and toolkits are readily accessible by searching for them using your web browser.

A Resource Guide Our Rights Are Not Optional: Advocating for the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women through its Optional Protocol, International Women's Rights Action Watch Asia Pacific.

Australian study tour report: visit of the UN Special Rapporteur on violence against women 2012, Australian Human Rights Commission.

Australia's Universal Periodic Review, Australian Human Rights Commission.

CEDAW Action Plan for Women in Australia: a resource pack to improve the human rights of women in Australia in line with the 2010 CEDAW Committee's Concluding Observations on Australia, YWCA Australia.

Empowering Young Women to Lead Change: a training manual, United Nations Population Fund and World YWCA.

Everyone's Business: a guide to developing programs for the primary prevention of violence against women, Women's Health Victoria.

Frequently asked questions on a human rights-based approach to development cooperation, Office of the United Nations High Commissioner for Human Rights.

From Principle to Practice: implementing the human rights based approach in community organisations, Victorian Equal Opportunity and Human Rights Commission.

Human rights: human lives: a handbook for public authorities, Ministry of Justice.

In Pursuit of Justice: 2011-2012 Progress of the world's women, UN Women.

International Human Rights and the International Human Rights System, Asia Pacific Forum of National Human Rights Institutions.

Making Rights a Reality: gender awareness workshops, Amnesty International.

Making Rights a Reality Human Rights Education Workshop for journalists, Amnesty International.

Making Rights a Reality Human Rights Education Workshop for non-governmental organisations, Amnesty International.

Promoting Equal and Respectful Relationships in Faith Communities: a manual and toolkit working together to prevent violence against women before it occurs, Vic Health.

Restoring Dignity: a toolkit for Religious Communities to End Violence Against Women, Religions for Peace.

Stopping Violence Against Women Before it Happens: a practical toolkit for communities, National Rural Women's Network.

Strategising Online Activism: a toolkit, Association for Progressive Communication Women's Networking Support Programme.

The Women's Report Card: CEDAW Training and Resource Kit, Women's Rights Action Network Australia.

Time for Action: The National Council's Plan for Australia to Reduce Violence Against Women and their Children 2009 – 2021, National Council to Reduce Violence Against Women and their Children.

We're Stronger Together: The Gender Works Toolkit, Genderworks Oxfam.

Websites

Australian Human Rights Commission
humanrights.gov.au

Queensland Centre for Domestic and Family Violence Research
endviolence.com.au

Unite to End Violence Against Women
un.org/en/women/endviolence/

United Nations
un.org/en

UN Women
unwomen.org

UN Women Australia
unwomen.org.au

White Ribbon Campaign
whiteribbonday.org.au

Women's International League for Peace and Freedom (WILPF)
peacewoman.org



the **women's** centre

Phone 07 4775 7555

Facsimile 07 4779 2959

Email nqcws@thewomenscentre.org.au

 [facebook.com\NQCWS](https://facebook.com/NQCWS)

thewomenscentre.org.au

Funded by Department of Communities, Child Safety and Disability Services

**Confidential and professional
services are available for women
who have experienced violence.**