Women With Disabilities Australia (WWDA)

Submission to the Australian NGO Beijing+15 Review
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September 2009

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1. About Women With Disabilities Australia (WWDA)

Women With Disabilities Australia (WWDA) is the peak organisation for women with all types of disabilities in Australia. WWDA is run by women with disabilities, for women with disabilities. It is the only organisation of its kind in Australia and one of only a very small number internationally in that it operates as a national disability organisation; a national women's organisation; and a national human rights organisation. WWDA represents more than 2 million disabled women in Australia. WWDA is inclusive and does not discriminate against any disability. The aim of WWDA is to be a national voice for the needs and rights of women with disabilities and a national force to improve the lives and life chances of women with disabilities. WWDA addresses disability within a social model, which identifies the barriers and restrictions facing women with disabilities as the focus for reform.

Women With Disabilities Australia (WWDA) is committed to promoting and advancing the human rights and fundamental freedoms of women with disabilities. Our work is grounded in a rights based framework which links gender and disability issues to a full range of civil, political, economic, social and cultural rights. This rights based approach recognises that equal treatment, equal opportunity, and non-discrimination provide for inclusive opportunities for women and girls with disabilities in society. It also seeks to create greater awareness among governments and other relevant institutions of their obligations to fulfill, respect, protect and promote human rights and to support and empower women with disabilities, both individually and collectively, to claim their rights. A rights based approach also demonstrates, in a practical way, our organisation’s commitment to the implementation of the core international human rights treaties ratified by the Australia Government, in particular the Convention on the Rights of Persons with Disabilities (CRPD), and the Convention on the Elimination of Discrimination Against Women (CEDAW).

More information about WWDA can be found at the organisation's extensive website at: www.wwda.org.au
2. Background & Context

In 1995, the Fourth World Conference on Women was held by the United Nations in Beijing, China by the United Nations. At that conference, all the governments of all nations attending agreed to the Beijing Platform for Action (BPFA)\(^1\). The BPFA was a landmark agreement. It identified a range of actions governments, the United Nations and civil society groups should take to make women’s human rights a reality. This included actions on poverty, education, health, women being politically active, government institutions, young girls, the economy, violence, women’s rights, media, the environment and armed conflict. Women’s groups had a strong presence and influence at these meetings, and so the Platform is an endorsed and recognized instrument for realization of women’s human rights. In 2000, the UN reviewed, on a government by government basis, how many of these actions had been put in place in five years. This review was known as Beijing+5. In 2005, the Beijing+10 review was undertaken to monitor the further progress of governments and the UN in commitments to and implementation of the BPFA.

In March 2010, the United Nations Commission on the Status of Women (CSW) will undertake the fifteen-year review of the implementation of the BPFA. A significant part of this Beijing+15 review will be the sharing of information between the delegations from both government and non-government organisations (NGOs) about improvements in the status of women since BPFA and good practices for implementing change. There will be differences of approach between countries in their preparation for the Beijing+15 review, but the emphasis should be on presenting a comprehensive picture of the actions undertaken in the past 15 years to improve the lived experience of all women in each of the member nations. Beijing+15 will review the 12 critical areas of the BPFA, as well as any new and emerging issues. The 12 critical areas are: Poverty, Women Decision Makers, Education and Training, Government Institutions, Health, Women’s Rights, Violence, Media, Armed Conflict/Refugees, Environment, Economy, and Young Girls.

It is important that the voices of women with disabilities are heard in the Beijing+15 review process. So often input from this sector of the population is not sought or heeded, so that issues for women with disabilities continue to be overlooked.

There are now more than 2 million women with disabilities living in Australia, making up 20.1% of the population of Australian women. Women with disabilities continue to be one of the most excluded, neglected and isolated groups in Australian society, experiencing widespread and serious violations of their human rights, as well as failures to promote and fulfil their rights. As a group, women with disabilities in Australia experience many of the now recognised markers of social exclusion - socioeconomic disadvantage, social isolation, multiple forms of discrimination, poor access to services, poor housing, inadequate health care, and denial of opportunities to contribute to and participate actively in society.

\(^1\) See: [www.un.org/womenwatch/daw/beijing/platform](http://www.un.org/womenwatch/daw/beijing/platform)
Compared to non-disabled women, women with disabilities in Australia:

- are less likely to be in paid work;
- are in the lowest income earning bracket;
- spend a greater proportion of their income on medical care and health related expenses;
- are less likely to receive appropriate health services;
- are substantially over represented in public housing and more likely to be institutionalised;
- are often forced to live in situations in which they experience, or are at risk of experiencing, violence, abuse and neglect;
- are more likely to be unlawfully sterilised;
- are more likely to face medical interventions to control their fertility;
- are more likely to be assaulted, raped and abused;
- are at particular risk of severe forms of intimate partner violence;
- are more likely to experience marriage breakdown and divorce;
- are less likely to have children;
- are more likely to be single parents.

This document is WWDA’s Submission to the Australian NGO Beijing+15 Review. It looks at the BPA critical areas for action, in the context of women with disabilities in Australia, and provides a brief analysis of some of the key issues for disabled women and girls. The voices of women with disabilities are strengthened with the use of direct quotes relating to particular issue areas. In addition to addressing the BPA action areas, this Submission also highlights two specific emerging issues of critical importance to women with disabilities in Australia:

- the right to found and maintain a family and the right to reproductive freedom; and,
- research and data collection.

This Submission complements a number of other WWDA publications which have been formally provided by WWDA as reference material to inform the Australian NGO Beijing+15 Review. These specific publications, available on WWDA’s website (www.wwda.org.au) include:

1. Women With Disabilities Australia (WWDA) Submission to the National Human Rights Consultation (May 2009);

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2. Women With Disabilities Australia (WWDA) 'We’re women too!' – Response to the Australian Government's Consultation on the National Plan to Reduce Violence Against Women and Children (July 2008);

3. Women With Disabilities Australia (WWDA) Submission to Inform the Development of the Framework for the new National Women's Health Policy (NWHP) (August 2009);


7. Women With Disabilities Australia (WWDA) Submission to the Parliamentary Inquiry into pay equity and associated issues related to increasing female participation in the workforce (August 2008);

3. BPFA Critical Areas of Concern

The Beijing Platform for Action (BPFA) calls on Governments, the international community and civil society, including non-governmental organizations and the private sector, to take strategic action in the following critical areas of concern:

- the persistent and increasing burden of poverty on women;
- inequalities and inadequacies in and unequal access to education and training;
- inequalities and inadequacies in and unequal access to health care and related services;
- violence against women;
- the effects of armed or other kinds of conflict on women, including those living under foreign occupation;
- inequality in economic structures and policies, in all forms of productive activities and in access to resources;
- inequality between men and women in the sharing of power and decision-making at all levels;
- insufficient mechanisms at all levels to promote the advancement of women;
- lack of respect for and inadequate promotion and protection of the human rights of women;
- stereotyping of women and inequality in women's access to and participation in all communication systems, especially in the media;
- gender inequalities in the management of natural resources and in the safeguarding of the environment;
- persistent discrimination against and violation of the rights of the girl child.
3.1. Poverty

Women with disabilities throughout Australia bear a disproportionate burden of poverty and are recognised as amongst the poorest of all groups in society. They experience many of the now recognised markers of social exclusion - socioeconomic disadvantage, social isolation, multiple forms of discrimination, poor access to services, poor housing, inadequate health care, and denial of opportunities to contribute to and participate actively in society.

Poverty is both a cause and a consequence of disability. Correlates of poverty, such as inadequate medical care and unsafe environments, significantly contribute to the incidence and impact of disability, and complicate efforts for prevention and response. The link between low socio-economic status and poor health has been well documented. Poor people are less healthy than those who are better off, whether the benchmark is mortality, the prevalence of acute or chronic diseases, or mental health.

Employment is the best defense against poverty, yet poverty is a fact of life for many women with disabilities in Australia. The right to work is fundamental to the enjoyment of certain subsistence and livelihood rights such as food, clothing, and housing. Moreover, one's working status may easily affect the enjoyment of other rights relating to health and education. The right to work is increasingly important as governments the world over continue to withdraw from the provision of basic services, leaving these to market forces and non-governmental actors.

Women with disabilities are less likely to be in paid work (or looking for work) than other women, men with disabilities or the population as a whole. There are fewer employment openings for disabled women and those who are employed often experience unequal recruitment and promotion criteria, unequal access to training and retraining, unequal access to credit and other production resources, unequal remuneration for equal work and segregation. In Australia, twenty-one per cent (21%) of men with disabilities are in full time employment compared to nine percent (9%) of women with disabilities. Eleven per cent of women with disabilities have part time employment compared to 6% of men with disabilities. In any type of employment women with disabilities are more likely to be in low paid, part time, short term casual jobs. Over the last decade, the unemployment rate for disabled women in Australia has remained virtually unchanged (8.3%).

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9 Ibid.
despite significant decreases in the unemployment rates for disabled men, and non-disabled women and men\textsuperscript{11}.

Australian Government data about employment of women with disabilities in the public sector in 2006-07 shows an employment rate of approximately 2.8%, compared to that of men with disabilities of 3.9%. This is an abysmal under representation compared to their proportion of the community as a whole\textsuperscript{12}). In contrast the proportion of Australian women of Aboriginal and Torres Strait Islander background is very close to their representation in the general population. In fact the Annual Report of the Public Service Commission\textsuperscript{13}) states that ‘we now need to bring the same sorts of results we have achieved for Indigenous employment to the employment of people with a disability’, and further notes that more focused support needs to be given to Commission agencies. Given that governments should show a leadership position in employment, and that it is 15 years since BPFA and 30 years since ratification of CEDAW, there should be ready evidence of such targeted, programs. The imbalance is further reinforced when it is considered that women make up 57% of the Australian Public Service. WWDA notes that the Government reports that women with disabilities make up 2.8% of Senior Executive positions, but omits mentioning that these levels have also been decreasing steadily over the past decade\textsuperscript{14}).

Negative social attitudes are a major barrier for women with disabilities seeking and securing employment. Much of the discrimination experienced by women with disabilities is based on an implicit notion that they are not the same as other women and so cannot be expected to share the same rights and aspirations. Although men and women with disabilities are subject to employment discrimination because of their disabilities, women with disabilities are at a further disadvantage because discrimination based on gender is combined with that based on disability. Disabled women who are from a non English speaking background or who are Aboriginal or Torres Strait Islanders, are often subject to a triple disadvantage. Women with disabilities have to deal with abuse, neglect and being deprived of their entitlements. They are often given marginal jobs far below their capacity. They are denied opportunities for further training and job advancement. They are often poorly paid; have few occupational and health standards; and are often unable to enforce industrial rights. Women with disabilities have reported being typically treated like children and not given credit when they had performed well on the job because attitudes in their workplace were such that no one believed that they could have actually done the job on their own\textsuperscript{15}.

The Disability Support Pension (DSP) is inadequate to support women with disabilities. The setting of income support payment rates for women with disabilities has failed to take account of the non-optimal,
extra costs associated with disability. In 2004, the Senate Inquiry into Poverty and Financial Hardship\textsuperscript{16} found widespread poverty among people with disabilities, and recommended that a new welfare allowance be introduced to address the extra costs associated with disability, such as the need for professional carers, special education and employment support. The Inquiry Report acknowledged that increased income alone would not overcome the many barriers facing people with a disability, but needs to be accompanied by changes in the areas of employment, health, education, housing and accommodation assistance, transport and information\textsuperscript{17}. It is to be hoped that women on the DSP will benefit from changes to the Disability Employment Network which will come into force in March 2010. This will enable these employment support services to offer greater assistance to pension holders in their search for work. However, the double discrimination referred to above is not addressed by that measure.

The right to an adequate standard of living includes the right to adequate housing, which includes security of tenure, availability of services, affordability, habitability, accessibility, location and cultural adequacy\textsuperscript{18}. Women with disabilities are substantially over-represented in public housing, are less likely to own their own houses than their male counterparts, are in the lowest income earning bracket, yet pay the highest level of their gross income on housing, and are over-represented in the main factors that increase the risk of homelessness. Women with disabilities in Australia continue to experience serious violations of their right to adequate housing, as well as failures to promote and fulfill this most basic human right. Issues\textsuperscript{19} for women with disabilities include:

- lack of affordable, safe, and secure housing;
- lack of low cost housing;
- severe lack of appropriately modified housing;
- lack of availability of housing which adheres to universal design principles;
- escalation in the cost of private rental;
- forced to live further away from services as a result of low income and high urban rental costs;
- discrimination in both the public and private rental markets;
- lack of supports available in the community;
- additional costs of disability, which compound lack of options in the housing market;
- higher risk of homelessness as a result of violence;
- ignored in homelessness and violence policy responses;
- lack of access to women’s refuges and other crisis and post-crisis accommodation services.


\textsuperscript{18} Committee on Economic, Social and Cultural Rights (CESCR) The right to adequate housing (Art.11 (1)) CESCR General comment 4. (General Comments) E/1992/23.

What Women With Disabilities Have Said About Poverty, Employment & Housing:

"Some people can’t conceive of what it is like to have the policies of politicians - who have little concept of living with a disability - continually threatening to erode your already meagre standard of living."

"I regard my pension as a social wage……..I wish it took my disability and the extra costs that brings into consideration."

"If women with disabilities do not have access to transport, accommodation, work, education and information we will continue to be dependent on community services and government payments. We will continue to experience ourselves as living on the edge of our society, as being of less worth than other human beings - and our society will continue to have that perception of us."

"If employers ask me anything about myself and I mention the slowness but that I can still get my work done on time, they only hear the word 'slow' and they think I'm intellectually disabled. So I haven't had much of a go in the employment field and that's affected me a fair bit."

"I am employable and I am a valuable person - the same as anyone else. I find it hard to convince people to employ me. I wish someone could speak with me to reassure employers that I am employable. I really want to work…..because I've been through the types of things I have, I have learned things that other people would never have learned. Disability should be turned into a strength - a positive thing. People need to believe in me."

"There's many employment agencies that say that they will help you, but I think that they are all the same - you have to get your own job. They don't help really."

"It is almost impossible trying to live on a Disability Support Pension when you have children to raise - especially school age children - the school always wants money for something or other; school club sports are expensive....."

"On many occasions, it's a case of Will I eat? Or Will I pay the bills?"

"Institutions don't teach people the skills necessary to find a place to live or how to survive in the community. We are only taught that as people with disabilities we shouldn't have the same rights as everybody else."

"My disabled aunt uses candles because she can't get anyone to help her change the light bulbs."

"I have a life long experience of hearing impairment issues that became profound very suddenly before Xmas....my change in hearing has resulted in my workplace coming to the conclusion that being profoundly deaf somehow means I am also totally physically incapacitated and therefore unable to undertake all paper/keyboard/filing/writing/administration tasks. While I have not been categorically fired, I have been prevented from working for several weeks now. All I want to be allowed to do is my job - which I am very good at."

"Not many people are interested in employing someone with a back problem - let alone one with a baby in tow...."

"Why do people treat me as though I'm stupid just because I use a wheelchair?"

"Women with disabilities are being forced to live in situations that don't suit us with people we don't know and housing we don't choose, just so we can get our support needs met."

"Temporary emergency housing is by and large completely inaccessible to women with disabilities."

"There is an ignorance of the research surrounding women with disabilities and poverty. Like, how it impacts on nutritional choices which then impacts on health. Women with disabilities are forced to use more processed food because they can't always afford, or prepare fresh food."

"I don't work because transport is insurmountable leading to deterioration in my mental health."
3.2. Education & Training

Whilst women with disabilities continue to be impacted by both gender and disability discrimination in most areas of their lives, in the education sector different dynamics seem to be at play. In education, their achievements are comparable to those of their male counterparts. However, their post year 10 participation in education is abysmal compared to that of both male and female non-disabled students20.

Women with disabilities in Australia have expressed their frustration at their lack of access to education and training programs, voicing a feeling of segregation from the education system21. Rising education fees coupled with cuts to disability programs, and lack of means to meet disability-related education costs such as specialised transport and carer support, serve to further exclude them from study22. The disparity between government funding of private education and funding of disability programs in education is also a critical issue for women with disabilities23. Skills development is a central factor in enabling people with disabilities to take part in the labour force. However training people with disabilities is not in itself a guarantee of employment and enhanced productivity24. For example, graduating from Vocational Education and Training (VET) courses in 2000 did not appear to have much effect on employment outcomes for those who reported a disability. It was found that 57.4% of disabled students were unemployed before the training and 56.6% were unemployed 6 months after the training. By comparison, in the case of non-disabled students these figures were 31.9% and 24%25.

Negative attitudes to women students with disabilities remain a significant factor impacting on their achievement levels. At University there is significant resistance to the adjustment of teaching methods to cater for students with disabilities. There is also resistance to making 'accommodations' for such students at exam times (e.g. with provision of 'extra time', 'split examination times', ergonomic furniture, etc.). Whilst nationally recognised accommodation standards have been in place for some time, there is a tangible improvement in accommodations since the Disability Standards for Education were adopted in 2005. Previously, students with disabilities only had recourse to the Disability Discrimination Act (1992) (DDA) when they were experiencing discrimination. Because under the DDA, the onus is on individuals to mount a discrimination case, very few cases are ever lodged with the Australian Human Rights Commission (AHRC).

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25 Ibid.
It is symptomatic of an attitude of generally ignoring the needs of students with disabilities that, as of 2008, only 29 Universities (74%) and 24 TAFES (38%) have lodged Disability Action Plans (DAP) with AHRC. The lodging of a DAP indicates an intention, at least, to minimise disability discrimination. In fact most DAPs mean very little (e.g. a formal complaint was brought against the ANU in 2005 about lack of signage of wheelchair access to buildings. As a result a copy of the DAP was forwarded to the complainant with a letter stating that the signage would be rectified 'soon', but the simple addition of direction arrows and international disability signage took several years to install). Although 3 years have now elapsed since the adoption of the Disability Standards for Education, general knowledge about them is extremely limited, and there is need for all staff to have some basic education and training about the standards.

The comparability of educational outcomes for women and men with disabilities is revealed as being a hollow achievement when employment and workforce participation figures are examined. In 2003 the labour force participation rate of women with disabilities was only 46.9% compared to 59.3% for men with disabilities. The unemployment rate of disabled women in the same year was 8.3% compared to 5.3% for non-disabled women. Twenty-one per cent of men with disabilities were in full time employment compared to 9% of women with disabilities. Eleven per cent of women with disabilities have part time employment compared to 6% of men with disabilities. In any type of employment women with disabilities are already more likely to be in low paid, part time, short term casual jobs26.

These figures highlight the need to examine the sorts of courses that women with disabilities are selecting. The Higher Education tables for students with disabilities show the greatest numbers of women with disabilities (6223) in Social Studies related courses, and miniscule numbers in engineering (184) and ICT (354), at 20% and 30% of male counterpart numbers respectively. These are similar trends to those found in the non-disabled population. The situation in VET is worse with high numbers of women with disabilities found in non-vocational courses. In employment once again, a major factor is the negative workplace attitudes of both colleagues and employers.

Salthouse & Lawrence27 proposed in 2008 that ‘difference’ discrimination compounds gender discrimination in a number of ways. Disability, ethnicity, Indigenous background, remote location and socio-economic status all continue to add layers of exclusion to the education system. School and higher education curricula and courses do not yet include measures to reduce this discrimination, and there is no general awareness training for which would assist teachers to minimize its impact.

What Women With Disabilities Have Said About Education & Training:

“Women with disability often find it difficult to attend university, especially women in rural and regional areas. I require very little physical support but because I live in the country and have six children, it is very challenging to complete further education and requires a very high investment of time and money.”

“There is no consideration given to transition for students with disabilities to the real world and often agencies do not work together holistically to create good employment and life outcomes for students with disabilities.”

“There are so many barriers to education - like lack of funding and support and the lack of specialised equipment.”

“I have been discriminated against at University. I was refused an extension to complete my units. They refused to accommodate my disability and had absolutely no understanding of, or empathy for, the difficulty of my situation.”

“In my experience, most teachers have no idea about disability and are judgemental. Some are openly hostile.”

“We need better and more easily accessed support, like for example disability coordinators, equal opportunity officers, interpreters, note takers, attendant carers, integration assistants.”

“Women with disabilities are often encouraged to undertake training courses that do not suit their personal needs and abilities, but are those which 'professionals' have considered would be useful. A vicious cycle often ensues and some women with disabilities find themselves doing nothing but preparatory courses.”

“The non-optional cost of disability prevents many women with disabilities from undertaking further study.”

“The most formidable barrier to educational equity for girls with disabilities may be their invisibility. They are not on the radar screen of either those committed to educational equity for girls, because as a rule, disability is not included in their work, or those committed to educational equity for children with disabilities, because with similar oversight, gender is not considered.”

“Girls with disabilities confront multiple barriers to obtaining an equitable education. Attitudinal barriers, such as gender bias compounded by disability bias, seem to be the most formidable.”
3.3. Health

Women with disabilities in Australia represent one of the groups with the highest risk of poor health. They experience major inequalities in health status, and significant disadvantage in the social determinants of those inequalities.\(^{28}\)

The right to health is dependent on, and contributes to, the realisation of many other human rights, including for example: the rights to food, to water, to an adequate standard of living, to adequate housing, to education, to work, to privacy, to access to information, to participation, and to freedom from discrimination. The right to health in all its forms and at all levels contains the following inter-related and essential elements: Availability; Accessibility – (encompassing non-discrimination, physical and information accessibility, and affordability); Acceptability; and, Quality\(^{29}\).

In Australia, women with disabilities experience significant difficulty accessing health information, care, support and services for the realisation of the highest attainable standard of health.

For many women with disabilities, the services and programs they require to realise their right to health are simply not available to them. For example, support for choices and services in menstrual management, contraception, abortion, sexual health management, pregnancy, birth, parenting and menopause remain inappropriate, absent or inaccessible.\(^{30}\) In many areas of Australia, breast and cervical cancer screening services are not available to women with disabilities, despite the fact that breast cancer is one of the most common cancers for females in Australia and one of the leading causes of death from cancer in females. Even where screening services are available, the vast majority of women with disabilities cannot receive these services because of economic, social, psychological and cultural barriers that impede or preclude their access to breast health and cervical screening services. The lack of available services and programs for women with disabilities experiencing violence, coupled with the almost universal exclusion of women with disabilities from women’s refuges and emergency housing in Australia is a critical issue impacting on the health of women with disabilities, yet remains largely ignored in violence prevention and health promotion responses at all levels.\(^{31}\)

**Affordability** is a major issue impacting on the ability of women with disabilities to access health facilities, goods and services. Women with disabilities throughout Australia bear a disproportionate burden of poverty and are recognised as amongst the poorest of all groups in society. Women with disabilities are less likely to be in paid work than other women, men with disabilities or the population as a whole. They are less likely

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\(^{29}\) Ibid.


than their male counterparts to receive adequate vocational rehabilitation or gain entry to labour market programs. Women with disabilities earn less than men with disabilities, are in the lowest income earning bracket, yet have more than three times the average yearly health care expenditures of other women\textsuperscript{32}. Even with the current concessions ostensibly afforded through bulk billing and pharmaceutical benefits to holders of Health Care Cards, the health of many women with disabilities is sub-optimal because the total cost of their health care is not affordable.

**Accessibility** is obviously of critical importance to women with disabilities in relation to their right to health. Policy makers, service providers and the broader community have limited understandings of accessibility, believing it requires only a ramp or an accessible toilet\textsuperscript{33}. In fact accessibility includes being able to receive all policy, service and program information in an accessible format. Experience in Australian health and community support services suggests that this kind of access is extremely limited in terms of both content that reflects the experiences of disabled women and format of information available, such as Braille, audio, Easy English and the use of telephone access relay services and sign interpreters. Another dimension of access includes being able to understand and meaningfully participate in the services and programs available. Again experience suggests that women with disabilities generally have limited input into the development of policies, services and programs, including information and education resources.

In Australia, women with disabilities experience significant difficulty accessing health information, care and services in relation to a wide range of women’s health issues, including: managing menstruation, contraception, exploitative relationships, violence, sexually transmitted diseases, sexual assault, menopause, late onset incontinence, osteoporosis, sexuality, reproductive health, self-management, fatigue, increased dependency, and parenting. In many cases, services and programs catering to the needs of women with disabilities in these areas are either absent or inaccessible\textsuperscript{34}.

There remain many, many **barriers and impediments**\textsuperscript{35} to women with disabilities in accessing health and related services, and it is outside the scope of this paper to cover them all. However, just some examples can be given in order to illustrate the multiple discriminations disabled women face in accessing a variety of facilities, goods services and conditions necessary for the realisation of the highest attainable standard of health:

- non-inclusive services and programs;
- inaccessible buildings and venues;
- lack of, inaccessible and unaffordable transport;
- inaccessible examination tables; lack of appropriate equipment


\textsuperscript{33} See: Women With Disabilities Australia (WWDA) (2009), Op Cit.

\textsuperscript{34} See: Women With Disabilities Australia (WWDA) (2009), Op Cit.

\textsuperscript{35} See: Women With Disabilities Australia (WWDA) (2009), Op Cit.
myths, stereotypes and assumptions that women with disabilities are asexual and do not need health promoting measures relating to sexuality, relationships, parenting, etc;
• lack of/reliance on attendant care support;
• inflexible service procedures;
• attitudes & skills of workers - lack of knowledge, inadequate training, negative attitudes, tendency to focus on the disability not the woman/issue;
• social isolation and segregation.

It is clear from the internationally endorsed position of what constitutes the right to health (including the criteria used to measure realisation of the right to health) that Australian Governments have, to date, failed consistently in their obligations to respect, protect, and fulfill the rights of women with disabilities, and in doing so, have denied disabled women the freedoms and the entitlements for health. This denial of rights finds clear expression through the many fundamental human rights infringements of women with disabilities still prevalent in Australia today\(^\text{36}\), including for example:

- the alarmingly high rates of violence against disabled women and girls and the failure of governments to recognise and take action on the issue, constituting a denial of the right to freedom from exploitation, violence and abuse;

- serious violations of the human right to an adequate standard of living, including adequate housing: denying disabled women the right to affordable, safe, and secure housing, thereby increasing their risk of homelessness;

- the many forms of the denial of the right to reproductive freedom – coerced abortions, pressure to undergo tubal ligations and hysterectomies, unlawful sterilisation, systematic denial of appropriate reproductive health care and sexual health screening, limited contraceptive choices, a focus on menstrual control, denial of access to assisted reproductive technologies, poorly managed pregnancy and birth, and the denial of rights to be a parent based solely on the fact of disability;

- denial of the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, particularly for women with disabilities in institutional care, who experience, and are at significant risk of experiencing violence, abuse, neglect and mistreatment.

\(^{36}\) See: Women With Disabilities Australia (WWDA) (2009), Op Cit.
What Women With Disabilities Have Said About Health:

“There’s a perception that because you have a disability you do not require a pap smear or a breast examination.”

“The additional costs of support required means that women with disabilities may not access regular medical care.”

“Decisions and choices are made for you because you are considered unable - maybe you have communication issues, mental health issues, an intellectual disability or an acquired brain injury. Capacity or perceived lack of capacity impacts upon consent.”

“People with a disability living in institutions rarely receive medical attention or adequate health care. Like the woman who was diagnosed as having an intellectual disability, and as the years went by she stopped walking and took to a wheelchair. In time she stopped moving around at all and gave up speaking. She would sit in a corner all day, bent over and making moaning noises. Everybody thought: ‘Oh that’s just her, she has an intellectual disability, she’s been acting like that for a while’. Eventually, for some reason not connected with her, a doctor examined all the residents: this woman was found to have advanced and extremely painful liver cancer.”

“Support workers are sometimes used by the healthcare system as a shield towards engaging with people with disabilities.”

“Most of the literature on health needs and issues of women with disabilities is from the medical model – we need a human rights focus to our health.”

“Doctors and other health professionals see the disability first and the woman second - because of this, vital health issues are overlooked.”

“Women with disabilities are seen as non-sexual beings and often face much discrimination stigma and value judgments around parenting, pregnancy, access to fertility treatments, contraception choices, and unequal access to women’s health screening tests such as pap smears and mammograms.”

“There are no subsidies for complimentary therapies and/or medicines which can be essential for women with disabilities.”

“Women with disabilities are often not given the chance to be involved in decision-making about their own health.”
3.4. Violence

Experience of violence prevents women with disabilities from enjoying their human rights and fundamental freedoms, such as the rights to life and security of the person, to freedom from exploitation, violence and abuse, to the highest attainable standard of physical and mental health, to education, work and housing and to participation in public life.\(^{37}\)

In Australia, violence against disabled women persists in a culture of silence, denial and apathy. They continue to experience both high levels of domestic and family violence sexual assault and have high levels of unmet needs in terms of access to domestic violence, sexual assault and related community support services. Compared to other women, disabled women:

- experience violence at higher rates and more frequently;
- are at a significantly higher risk of violence;
- have considerably fewer pathways to safety;
- are at particular risk of severe forms of violence;
- tend to be subjected to violence for significantly longer periods of time;
- experience violence that is more diverse in nature; and,
- experience violence at the hands of a greater number of perpetrators;
- are not believed when they report experiences of violence;
- are less likely to report experiences of violence.\(^{39}\)

The nature of violence against women and girls with disabilities in Australia encompasses a wide range of injustices and maltreatment. They experience, and are greatly at risk of violence and abuse due to structural, cultural and contextual issues, including the entrenched social exclusion they experience. Issues of abuse, neglect, discrimination and omission often provide the conditions and contexts that deny women with disabilities their human rights and also lead to violence.\(^{40}\)

Compared to other women, women with disabilities are at greater risk of physical, sexual, and emotional abuse as well as to other forms of violence, such as institutional violence, chemical restraint, drug use, unwanted sterilisation, medical exploitation, humiliation, and harassment. There are a wide range of factors that increase the ‘vulnerability’ of women with disabilities to violence, including:

- *dependence on others* - many women with disabilities are in positions where they are reliant on others to provide care and support for a range of needs; the imbalance of power and control built into care-giving relationships supports overt and subtle violence against women with disabilities by those closest to them.

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\(^{39}\) See Women With Disabilities Australia (WWDA), 2009, Op Cit.

\(^{40}\) For a detailed analysis of the issue of violence against women with disabilities, go to: [www.wwda.org.au/viol.htm](http://www.wwda.org.au/viol.htm)
• **fear of disclosure** - many women with disabilities are not believed when they disclose their experiences of violence.

• **poverty & lack of economic independence** - economic disadvantage increases women with disabilities' susceptibility to entering and remaining in violent relationships.

• **lack of education/lack of knowledge** - disabled women and girls are regularly deprived of the skills to recognise and address violence; many disabled women who experience violence do not know that what is happening to them is wrong.

• **social isolation** - is a major contributor to powerlessness in the lives of women with disabilities; disabled women who are socially isolated may not learn about available services and resources or their legal rights.

• **place of residence** - women with disabilities living in institutional or residential settings are particularly vulnerable to violence due to the entrenched sub-culture of violence and abuse prevalent in institutions, as well as the removal from public scrutiny.

• **communication** - limits in communication and language skills may interact with social factors to predispose women with disabilities to violence.

• **lack of services & support** - the lack of appropriate, available, accessible and affordable services, programs and support contribute to the tendency for women with disabilities to be subjected to violence for significantly longer periods of time than non-disabled women.

• **lack of access to the criminal justice system** - many women with disabilities who experience violence are without effective recourse to justice due to legal systems which are permeated by social norms that reinforce gender inequality and disability discrimination.

• **nature of disability** - women with disabilities can encounter increased durations of violence as a result of factors related to specific disabilities, such as the inability to physically escape the perpetrator.

• **low self esteem & lack of assertiveness** - many women with disabilities are taught and 'rewarded' for, unquestioning compliance.

Despite these facts, in Australia, legislation, policy and services for women with disabilities experiencing, or at risk of experiencing violence, are limited at best and non-existent at worst. Current areas of Australian legislation, policy and services which focus on the broader issue of violence against women, indicate a prevailing lack of awareness about the complexity of issues facing women with disabilities in relation to violence – a situation which perpetuates and legitimises not only the multiple forms of violence perpetrated against them, but also the failure of governments to recognise and take action on the issue.\(^{41}\)

The lack of inclusive services and programs for women with disabilities experiencing or at risk of experiencing violence, is well documented\(^{42}\). This is widely recognised as a barrier to women with


\(^{42}\) See: Women With Disabilities Australia (WWDA), 2007, Op Cit.
disabilities escaping the violence, resulting in limited support options when leaving a violent situation, recovering from the trauma of victimisation, and rebuilding their lives as independent, active, valued members of society\textsuperscript{43}. Of the services that do exist (such as refuges, shelters, crisis services, emergency housing, legal services, health and medical services, and other violence prevention services) a number of specific issues have been identified which make access for women with disabilities in Australia particularly problematic. These include:

- \textit{knowledge & understanding of the issue by women themselves} - whilst domestic violence is a significant presence in the lives of large numbers women with disabilities in Australia, many do not recognise it as a crime; are unaware of the services and options available to them or lack the confidence to seek help and support.

- \textit{information & communication} - experience in Australian Supported Accommodation Assistance Program (SAAP)\textsuperscript{44} services suggests that accessible information and communication is very limited in terms of both content that reflects the experiences of disabled women and format of information available, such as Braille, audio, Easy English and the use of telephone access relay services and sign interpreters.

- \textit{getting to and using a service} - for many women with disabilities, the physical means of fleeing a violent situation, (such as accessible transportation), are often unavailable. Crisis services do not necessarily have accessible transport nor are they able to assist a woman to physically leave the violent situation. Women with disabilities are unlikely to be referred to SAAP agencies because it is assumed that SAAP agencies do not or are not able to cater for their needs.

- \textit{service structure & physical environment} - refuges and other crisis services in Australia are, in most cases, not physically accessible to many women with disabilities. Service procedures (such as orientation programs, emergency procedures etc) are not structured in flexible ways that meet the needs of women with disabilities. Policies and 'rules' within services often work against women with disabilities.

- \textit{attitudes & skills of workers} - service providers within refuges and other community support services often share some of the stereotypes and myths held by society at large regarding women with disabilities. Limitations in workers awareness of the broader issues of accessibility and disabilities, negative or ambivalent attitudes about providing access, lack of knowledge of the complex nature and multiple forms of violence against women with disabilities, limited recognition of the sexuality


\textsuperscript{44} The Supported Accommodation Assistance Program (SAAP) was a jointly funded Commonwealth/State program established in 1985 to assist people who are homeless or at risk of homelessness to achieve self reliance and independence by providing transitional supported accommodation and a range of related support services. SAAP was replaced on 1 January 2009 by the National Affordable Housing Agreement (NAHA).
of women with disabilities, and a tendency to focus on the disability rather than the violence may all stem from this. Resources, attitudes and narrow prescriptions of responsibility are often the reasons for maintaining exclusionary practices.

The systematic exclusion of women with disabilities from SAAP funded services (such as refuges, shelters, crisis services) throughout Australia has been documented for more than two decades. In 2004, the New South Wales Ombudsman undertook an inquiry into New South Wales SAAP agencies to determine the extent of, and reasons for, exclusion from SAAP. Overall, the inquiry found that 'the level and nature of exclusions in SAAP are extensive. In some cases, exclusions appear to be unreasonable and possibly in contravention of SAAP and anti-discrimination legislation, and SAAP standards and guidelines'. People with disabilities - including people with physical disabilities, intellectual disabilities, acquired brain injury, along with people with mental illness - were one of the most significant groups affected by exclusion from SAAP. The Inquiry found that a significant proportion of exclusions were based on 'global' policies of turning away all individuals belonging to a particular population group or sharing similar characteristics with a group.

The duty of Governments to respect, protect, fulfil and promote human rights with regard to violence against women includes the responsibility to prevent, investigate and prosecute all forms of, and protect all women from such violence and to hold perpetrators accountable. Yet, successive Australian Governments have shown little interest in, and taken minimal action to address, any aspect of the ‘epidemic’ that is violence against women with disabilities. For example, the lack of Australian research and data collection on violence against women with disabilities is an issue that has been consistently articulated to Government for over a decade, and highlighted by the United Nations Committee on the Elimination of All forms of Discrimination Against Women (CEDAW). Yet in 2009, the situation remains largely unchanged.

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46 NSW Ombudsman, 2004, Assisting homeless people - the need to improve their access to accommodation and support services. Final Report arising from an Inquiry into access to, and exiting from, the Supported Accommodation Assistance Program. NSW Ombudsman, Sydney, NSW.


48 The Australian Government has to date, rejected calls for its national Safety Survey/s (conducted to gather information about women’s and men’s experiences of violence) to include an indicator for disability, in order to enable data collection on violence against women with disabilities. Reasons given by the Government for excluding disability include sample size (12,000 in 2005) and survey methodology: ‘as women are most at risk of experiencing violence from someone known to them, we are aware of the sensitivities involved in surveying women with disabilities about their experience(s) of violence in the presence of a carer, who in some circumstances may be the perpetrator of violence’ (Planagan 2004).

What Women With Disabilities Have Said About Violence:

“All my married life I had been told by all around me how ‘lucky’ I was to have this wonderful man who was prepared to have a disabled woman for a wife. He was put up on a pedestal like some kind of bloody Saint.”

“I never questioned the way I was treated, I thought it was normal. I believed that I was not entitled to be treated well because of my disability.”

“As women, whether we have a disability or not we experience the same. I may face more physical challenges but I’m still a woman. I deserve respect, love and a relationship that is safe.”

“I daren’t divorce him……..on a disability pension I wouldn’t get enough to cover the rent, let alone buy food.”

“I have had some counselling with a Rape Crisis Centre…..but I feel I need someone that is specialised in working with women with disabilities who have been through sexual assault.”

“I didn’t know that emotional and verbal abuse were recognised as domestic violence.”

“I am not saying that women with a disability should get ’special treatment’. What we do seek is to have just, fair and appropriate support services, a clear understanding of the law and an awareness of who are the key players in the court process and who will eventually provide us with protection.”

“Women with disabilities are at increased risk of violence and yet don’t have equal protection under the law. We are often not seen as credible witnesses in criminal cases and conviction rates for crimes against us are generally much lower.”

“Women’s refuges won’t take us because we have disabilities.”

“There is not enough information out there for women with disabilities about domestic violence. There is no thought given to making information accessible.”

“Women with disabilities are not seen as sexual beings, therefore it doesn’t even occur to people that women with disabilities experience domestic violence.”
3.5. Economy

The past few decades have seen a revolutionary increase of women’s participation in the paid labor force. Especially noticeable has been the increased number of working mothers. However, as outlined earlier in this Submission (see Poverty) women with disabilities have not been a part of the women’s employment revolution. Employment policies have devoted little attention to the disadvantaged employment status of women with disabilities. This seems to hold true of both generic employment policies as well as the employment policies directed specifically towards people with disabilities.

The Howard Government’s Work Choices legislation which came into effect in March 2006, had a marked negative impact on women with disabilities. The raft of legislation which accompanied the Workplace Relations Amendment (Work Choices) Act 2005 radically changed the industrial landscape. The major change was to individualise employment relations. This disproportionately affected women with disabilities who now had to rely on their individual bargaining power to negotiate work contracts. Because of the barriers to obtaining work in the first place, women with disabilities reported that they were not willing risk their employment by asking for any improvements in pay and conditions. They thus tended to be victims of this legislation and were progressively pushed into the more low paid positions. Even though this legislation has been repealed, it has had a negative long term effect on their economic well being.

Unfortunately a second piece of legislation which came into effect 6 months after the Work choices legislation compounded its effect on women with disabilities. The Welfare to Work legislation was designed to stereotypically and systematically denigrate people who were on welfare support, and force them into ‘work for the dole’ obligations in order to qualify for payments. New jobseekers were paid a NewStart Allowance which was significantly less than the Disability Support Pension. At the same time, the new regulations put those on the Disability Support Pension (DSP) at risk if they failed in their employment. This further disempowered women with disabilities who are more at risk of losing their jobs in an economic downturn. Although the worst components of this legislation have now also been repealed, the affect remain so that women with disabilities became even more vulnerable in an economic down turn.

The findings of The Australia Institute (TAI) in their 2009 report on Impact of the Recession on Women highlighted that women are already in critical unemployment and underemployment such that the effects of the Global Financial Crisis will marginally worsen an already bad situation. Unemployment rates for non-disabled women are predicted to change to about the 8% level, a rate which is the norm for women with disabilities. The TAI research found that women comprise nearly 80% of the hidden unemployment in the 25-44 year age bracket.

Certainly extremely high percentages of women with disabilities are in the hidden unemployment bracket because they face barriers to participation, cannot find suitable Disability Employment support agencies. Support agencies themselves report that they do not have capacity to assist all the women who present for help. Moreover, these agencies are finding it progressively more difficult to secure employment positions for women with disabilities. The annual report of a Canberra agency\textsuperscript{51} shows that in 2007-08, 1200 potential employers were contacted in order to secure 154 interviews. The proportion of job placements was even lower. This is a reflection of the difficulty of obtaining any form of economic security for women with disabilities.

As a response to the economic downturn, the Government made one-off payments to all Australian taxpayers. Some women with disabilities did not receive this payment because they did not fit the criteria. The Government also responded to long term requests to raise pension payments to reflect what would be a ‘living wage’. However reports now coming to light show that state governments are eroding a significant amount of this increase pension payment through garnishing a percentage of income for the rent payments on public housing. This will detrimentally affect women with disabilities who already pay a higher proportion of their income on housing.

\textsuperscript{51} Advance Personnel (2008) \textit{Annual Report 2007-2008}
3.6. Women Decision Makers

Leadership is a major issue for women with disabilities in Australia. There are more than 2 million disabled women in Australia, yet women with disabilities are neither visible in the community, nor likely to hold high office in the public or private sectors. It is now widely recognised that the twin discriminations of disability and gender operate to exclude women with disabilities from many forms of participation in society. Women with disabilities are typically perceived as helpless, childlike, dependent, needy, victimised, and passive. They are not seen as fit to fill the traditional roles of a mother, wife, homemaker, nurturer, or lover and economically productive roles are not seen as appropriate for them either. Some authors have characterised women with disabilities as ‘roleless’ because of the limited social roles available for them and the absence of institutional means to achieve valued adult roles. Women with disabilities remain largely invisible and voiceless in society. Their issues and needs are often neglected within services and programs, and they remain marginal to social movements designed to advance the position of women, and the position of people with disabilities.

The combined effects of gender and disability stereotyping and discrimination in education and employment tracks women with disabilities into the most traditional female roles. As a result, women with disabilities are unlikely to have the opportunities that will allow them access to highly valued, well-paying professional positions.

Access to decision-making, political participation and representation are essential markers of gender equality. However, in Australia, women with disabilities are often excluded from opportunities to participate in decision-making about issues that affect their lives and those of their families, community and nation. They are typically ignored in the development of legislation, policy, programs and services that affect them.

It is largely through the actions of women with disabilities themselves that this culture of exclusion is being challenged. Groups and networks of disabled women are emerging and organising at local, regional, national and international levels.

Due in large part to the work of WWDA, women with disabilities are now participating in the operation of more women’s and disability organizations and in cooperation work with research and aid institutions. In addition women with disabilities are conducting more systemic advocacy consultations and forums. Further, marginalized groups, including women with disabilities, are now routinely named in many government policies and documents. However, most participation requires additional funding support because assistive facilities are needed for participation. These can range from assistance with transport, to interpreters, to hire of wheelchairs at destination point. Women with disabilities have to constantly advise authorities about what

is needed, and of the additional funding needed. In addition, women with disabilities realize that they do need to be constantly seen at consultations in order for their issues to be on the agenda. It remains a further difficulty to have these issues actually addressed in the implementation phases of policies. Too often, the targeted programs which would bring about changes to women with disabilities are not undertaken.

Throughout the world, disabled women are coming together to share their experiences, to gain strength from one another and to collectively work on issues that affect them – researching and documenting their issues and experiences, developing programs to address these issues, and working to influence legislative, policy, and service development. In Australia, Women With Disabilities Australia (WWDA) provides such a mechanism. Through its systemic advocacy activities WWDA works consistently to keep issues that impact on women with disabilities at the forefront of public policy.

What Women With Disabilities Have Said About Decision-Making & Leadership:

"Women with disabilities have often had less access to education, health, rehabilitation and employment and their opportunities to take up leadership roles have been severely restricted... [We] need to support women with disabilities to gain leadership positions in all walks of life. This means that we do not solely focus our attention on disability issues but take a more holistic view."

"Role modelling and peer mentoring is essential for the growth of women with disabilities and especially girls with disabilities."

"It is essential that women with disabilities are afforded the opportunity to learn leadership skills so they can represent the views of women with disabilities and also pass on those skills to other women."

"Society generally doesn't view women with disabilities as being valuable members of the community. We are seen as dependent and as burdens. It's somehow assumed that because we're disabled we can't contribute. It's assumed we have no skills and nothing to offer."

"I would like to learn advocacy skills so that I could speak up for myself more."

"In this age there is absolutely no reason why we cannot 'attend' [meetings] on a 'virtual' level through the simple use of the internet, inexpensive/free software programs, and a computer. The use of freely available technology would allow us access not only to meetings in the city, but importantly allow us to provide input at conferences, meetings and seminars held interstate which are often cost prohibitive."
3.7. Government Institutions

In the Australian context, law in relation to disability remains essentially un-gendered whilst gender related law takes little or no account of disability. At the Federal level, the framework for disability includes both rights based and enabling legislation, including the **Disability Discrimination Act 1992** (Cth) (DDA). The DDA prohibits discrimination in a range of areas including employment; education; the provision of goods, services and facilities; and access to premises. This Act also makes harassment on the basis of disability against the law and protects friends, relatives and other associates from discrimination because of their connection to someone with a disability. Compliance with the DDA is driven mainly by a system of individual complaints. However, many disabled women face significant barriers or disincentives to using the complaints process, including in the first instance ascertaining whether the discrimination is due to gender or disability. Many women simply lack awareness and understanding of the legislation and once in the process can be overwhelmed by its complexity and formality. They may fear victimisation and have doubts about the enforceability of conciliation agreements. Financial and non-financial and costs involved may mean that it not worth their while proceeding, especially if there is a lack of support and assistance in preparing for, and going through the process.53

In Australia, a number of factors shape the way disabled women experience the law and the legal and criminal justice system. The increasingly litigious and complex nature of regulatory frameworks, heightened vulnerability to justiciable problems and issues of ‘access’ all contribute to their continuing social exclusion.54

Women with disabilities and their supporters have expressed concern over the lack of resourcing and power afforded to the **Australian Human Rights Commission**.55 For example, during the term of the Howard Government, there was a political agenda to undermine the Australian Human Rights Commission (then known as the Human Rights and Equal Opportunity Commission) – evident in the significant budget cuts to the Commission, along with successive attempts to introduce legislative amendments that would weaken its powers.56 This was coupled with a failure to appoint people to significant positions. During that time the Human Rights Commissioner also acted as the Disability Commissioner and was never affirmed in that role. Similarly, the office of Sex Discrimination Commissioner was left unfilled for over a year. These inactions were clearly in contravention of the UN Principles relating to the Status of National Institutions (The Paris Principles), which were agreed to by Australia in 1993.

54 Ibid.
55 The Australian Human Rights Commission (AHRC) is the independent body responsible for scrutinising and promoting human rights. It was established in 1986 by an act of the Federal Parliament, and its goal is to ‘foster greater understanding and protection of human rights in Australia and to address the human rights concerns of a broad range of individuals and groups’. See [www.hreoc.gov.au](http://www.hreoc.gov.au)
57 The ‘Paris Principles’ were negotiated at the Vienna World Conference on Human Rights in 1993, and were subsequently adopted by the UN General Assembly. The Paris Principles lay down a set of minimum standards for the establishment of a National Human Rights Institution.
What Women With Disabilities Have Said About Government Institutions:

"Equality under and equal protection of the law is nothing more than a fairy tale for people with cognitive and behavioural disabilities."

"It is impossible to navigate the legal system. I couldn’t use the DDA complaints process because I couldn’t find anyone who was prepared to help me and support me through the process. Every service I contacted just passed me on to somewhere else. No one would help."

"There is a lack of appropriate information for women with disabilities about their rights, about what constitutes a crime, and about legal remedies available to them."
3.8. Women’s Rights

The social exclusion and discrimination faced by people with disabilities has increasingly been recognised as a human rights issue. A paradigm shift, from a medical and charity based welfare model of disability, to today’s rights based model, acknowledges the movement to link disability issues to a full range of civil, political, economic, social and cultural rights. The human rights framework recognises people with disabilities as having the same rights as people without disabilities. A rights based approach also recognises that equal treatment, equal opportunity, and non-discrimination provide for inclusive opportunities for women and men with disabilities in mainstream society. This rights based approach is most clearly articulated in the UN Convention on the Rights of Persons with Disabilities (CRPD) – which aims to ensure that persons with disabilities enjoy human rights on an equal basis with others. The CRPD was adopted by the United Nations General Assembly in December 2006 and opened for signature in March 2007. It was ratified by the Australian Government on July 2008, and entered into force in Australia on August 2008.

The CRPD specifically acknowledges the impact of multiple discriminations caused by the intersection of gender and disability. It prioritises women with disabilities as a group warranting specific attention, and calls on States Parties to take positive action and measures to ensure that women and girls with disabilities enjoy all human rights and fundamental freedoms (Article 6).

The Australian Government has a responsibility to develop national health policies and legislation that conform to its human rights obligations as set out in the CESCR, CRPD, CEDAW (and the other international human rights treaties it has ratified) along with the various international declarations and consensus documents to which it is a party. It is clear that Australian Governments have, to date, failed consistently in their obligations to respect, protect, and fulfil the rights of women with disabilities, and in doing so, have denied disabled women their human rights and fundamental freedoms.

This denial of rights finds clear expression through the many fundamental human rights infringements of women with disabilities still prevalent in Australia today. In this era of human rights, and in a country where the current Federal Government has expressly stated its commitment to ‘promote human rights and the fundamental equality of all people’, women with disabilities:

- are denied their right to bodily integrity through a failure to legislate to prohibit the practice of forced sterilisation except in circumstances of threat to life;

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• are denied their right to control their own bodies and to be free from interventions – evidenced by the widespread practices of menstrual suppression, forced contraception and coerced abortion;

• are denied the right to experience their sexuality, and to have sexual relationships;

• are denied their right to reproductive freedom in a myriad of other ways - pressure to undergo tubal ligations and hysterectomies, systematic denial of appropriate reproductive health care and sexual health screening, limited contraceptive choices, a focus on menstrual control, denial of access to assisted reproductive technologies, poorly managed pregnancy and birth;

• are denied their right to found and maintain a family, experiencing discriminatory attitudes and widely held prejudicial assumptions which question their ability and indeed, their right to experience parenthood;

• remain invisible and ignored in maternity, obstetric and related health care policies, programs and services;

• face overt discrimination and inequitable access to assisted reproductive technologies;

• have their babies and children removed by child welfare authorities without evidence of abuse, neglect and/or parental incapacity;

• lose their children in custody disputes simply because they are women with disabilities;

• are denied adequate support services for all aspects of pregnancy and parenting;

• battle against political agendas and social commentaries which cast their children as ‘young carers’ at risk of parentification and themselves as burdens of care;

• have less access to breast and cervical screening programs and services than any other group of women yet are ignored in these policies, services and programs;

• remain largely ignored in Australian health related research, legislation, policies, and services;

• experience poverty, un/underemployment, inaccessible or inappropriate housing arrangements and inaccessible public environments, social isolation, multiple forms of discrimination, poor access to services, heightened vulnerability to violence and abuse;
• are denied their right to freedom from exploitation, violence and abuse – experiencing alarmingly high rates of violence and abuse yet excluded from violence prevention legislation, policies, services and supports;

• experience serious violations of the right to an adequate standard of living, including adequate housing;

• are marginalised, excluded or ignored in decision-making processes which affect their lives.

What Women With Disabilities Have Said About Rights:

"My view of what I would like to see happen for women with disabilities is that they are accepted as a normal part of the community and that they have the same opportunities in employment and transport and other areas of the community as women without a disability."

"It is high time that people controlling institutions realise that disabled people are no longer willing to sit back and have their morals dictated to them. In fact, sexuality within institutional accommodation should not even be an issue. Privacy and freedom are not privileges to be granted or taken away. They are our basic human rights. Just as people who run the institutions would not appreciate their own sex life to be regulated by a stranger, nor do we. What we do in our own rooms, and who we do it with, is not the business of staff, administration the milkman, or anyone else."

"Often because of the low value and expectation placed on women with disabilities, there is not the same emphasis on achieving ordinary life goals and this can lead to poor self-esteem and limited life opportunities ie relationships, marriage, children, education, work.

"We have the right to control what happens to our own bodies."

"Women with intellectual disabilities and mental health issues have not been given a role in making decisions and/or having choices around their own issues and concerns."

"I would like to see more women with disabilities - especially girls - be given more opportunities."
3.9. Media

People with disabilities have long expressed their view that media distortions of the experience of disability contribute significantly to the discriminatory process. Stereotype assumptions about disabled people are based on superstition, myths and beliefs from earlier less enlightened times. They are inherent to our culture and persist partly because they are constantly reproduced through the communications media. We learn about disability through the media and in the same way that racist or sexist attitudes, whether implicit or explicit, are acquired through the 'normal' learning process, so too are negative assumptions about disabled people.

Metaphors of disability as descriptive tools still abound in the media. For example, ‘crippled’ is used to describe economies, strike-bound industries and so on. ‘Blind’ and ‘deaf’ are frequently used as derogatory terms to convey particular meanings, as in ‘Blind Freddy’. Politicians are accused of being deaf/blind to the needs of their constituents and such language is used in vitriolic attacks by parliamentarians on each other – language then reported in the media. Women are ‘handicapped’ by their secondary status. As highlighted by Meekosha & Dowse these terms are not neutral – they convey a sense of incompetence and incompleteness and are associated with undesirable states of being.

The vast majority of information about disability in the mass media is extremely negative. Disabling stereotypes which medicalise, patronise, criminalise and dehumanise disabled people abound in books, films, on television, and in the press. They form the bed-rock on which the attitudes towards, assumptions and about and expectations of disabled people are based. They are fundamental to the discrimination and exploitation which disabled people encounter daily, and contribute significantly to their systematic exclusion from mainstream community life. They can, and do, have a profound effect on the self image of people with disabilities themselves.

Images of disabled women and girls in the mass media are universally negative or absent. If portrayed in a fictional or dramatic work, they are often utilised to represent a negative situation or character flaw (weakness, passivity, evil, sickness). If reported in a news or feature story, the disabled girl or woman is usually singled out as an object of pity or charity, or conversely, as a heroine for achieving the ordinary. Missing in the media are the everyday stories about girls and women with disabilities who are attending schools, participating in active family life, holding down jobs - part of the foreground and background of the rhythm and dynamics of communities all over the world.

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Women with disabilities are not represented or visible in the media industry – as writers, producers, directors, journalists, and as actors. As workers in the industry, women with disabilities face enormous barriers and there is little support for their needs. They are often restricted to the marginal arenas of alternative community radio and community press. Given the intense nature of the work and the long hours demanded of media workers, it is not an industry amenable to women with disabilities requiring alternative work design and flexible work practices\(^\text{67}\).

### What Women With Disabilities Have Said About the Media:

- "There are few positive role models of women with disabilities in the media. This negative image combined with unemployment, perceived lack of opportunity and discrimination contributes to the negative image many of us have of ourselves."

- "The pressure to conform to rigid beauty standards put forward by the media and therefore society add extra pressures to women with disabilities, who are perceived and perceive themselves to be less ‘perfect’.”

- "Disabled women are rarely held up to the spotlight as glamorous; they represent the antithesis to the ultimate in idealized womanhood."

- "Disabled women are invisible in the media."

- "Society’s focus on aesthetics, ie the perfect body, can lead to issues of depression and low self-esteem for women with disabilities."

- "The media portrays men with disabilities as ‘fallen heroes’ and women with disabilities as ‘needy burdens’."

\(^{67}\) Meekosha, H & Dowse, L (1997) Op Cit.
3.10. Environment

In 2008, the Australian Government convened a National Rural Women’s Summit (NRWS) of key women representatives. The Summit was initiated by the Hon Tanya Plibersek, Minister for the Status of Women, with the support of the Hon Tony Burke, Minister for Agriculture, Fisheries and Forestry, the Hon Anthony Albanese, Minister of Infrastructure, Transport, Regional Development and Local Government and the Hon Kate Ellis, Minister for Youth and Sport. Four of the 82 delegates to the summit were women with disabilities.

The state of the environment in Australia was of primary concern to all delegates and a specific workshop was held on environment, climate change and water. In its report to Government at the conclusion of the Summit, the first of the recommendations put by delegates was to immediately declare a National State of Emergency for water in Australia.

The report stated that: *Australia faces an unprecedented challenge from climate change coupled with our ever-expanding ecological footprint. We risk losing our natural heritage, our water resources, and the basis for our lifestyles and future prosperity. We have a brief opportunity to act now to safeguard and shape our future* (2020 Summit).

Despite the environment being of primary concern to women from regional, rural and remote locations, the Government’s Response to did not contain a single reference to the environment.

The degradation of the environment is having both a direct and indirect impact on women with disabilities who live in regional, rural and remote locations. A direct effect of environmental degradation is that there are increased levels of human disease and disability. Measuring the changed incidence of environment related disease factors can be used as a tool for promoting environmental protection measures. However, there is little evidence that such data is being collected. Indirectly, rural communities are depleting in size with accompanying degradation of infrastructure. Women with disabilities who already face barriers in accessing services are further restricted as facilities retract to the regional centres, and as transport and other services become less frequent and less reliable.

It also needs to be highlighted that there are a number of conditions and disabilities which are thought to be linked to exposure to chemicals, heavy metals and environmental pollutants – disabilities such as Myalgic Encephalomyelitis/Chronic Fatigue Syndrome; mesothelioma and other cancers.

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68 National Rural Women’s Summit (2008) Report from the National Rural Women’s Summit, June 2008
70 See for example: [http://www.mecfs.org.au](http://www.mecfs.org.au)
3.11. Young Girls

The right to bodily integrity and the right of a woman to make choices about her reproduction are enshrined in a number of international human rights treaties and instruments to which Australia is a party\(^\text{71}\). However, in Australia in the 21st century there are numbers of disabled women and girls who have been and continue to be, denied their right to bodily integrity through the ongoing practice of ‘non-therapeutic’\(^\text{72}\) or ‘forced’ sterilisation\(^\text{73}\).

Sterilisation is a procedure that is notorious for having been performed on young women with disabilities for various purposes ranging from eugenics, through menstrual management and personal care, to the prevention of pregnancy, including pregnancy as a result of sexual abuse. Indeed, the overwhelming majority of sterilisations and certainly all the cases heard by relevant Australian courts and tribunals, involve girls with intellectual disabilities (Brady et al 2001).

In 2001 Women With Disabilities Australia (WWDA) undertook a *National Project on the Sterilisation and Reproductive Health of Women and Girls with Disabilities*\(^\text{74}\), which was the first research ever conducted in Australia where the voices and stories of disabled women were the primary focus. The project included a National Forum for disabled women whose lives had been affected by sterilisation. The Forum provided a safe and secure environment for disabled women to speak out about their experiences and set the agenda for what needed to happen in the future. The women participating in the Forum spoke about sterilisation as a life sentence, their sense of loss and betrayal, their intense pain and anger, the health effects they can anticipate, the effect on their relationships, and the lack of support available to them. Their primary message was to listen to their stories and learn from them so that healing could take place for those already affected and safeguards could be put in place to prevent others being denied their human rights. The resulting report of WWDA’s national project, ‘*Moving Forward*’\(^\text{75}\) recommended the banning of all sterilisations of girls under the age of 18 years and the prohibition of sterilisation of adults in the absence of informed consent, except in circumstances where there is a serious threat to health or life. The report also outlined a program of reconciliation; co-ordinated legislative and policy development; information, support and service models; consent considerations; approaches to reproductive health care and education; and data collection. The

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\(^{71}\) See for example: International Covenant on Economic, Social and Cultural Rights (Article 10); International Covenant on Civil and Political Rights (Article 23); Convention on the Elimination of All Forms of Discrimination against Women (Article 16); Convention on the Rights of Persons with Disabilities (Article 23).

\(^{72}\) ‘Non-therapeutic sterilisation’ is sterilisation for a purpose other than to ‘treat some malfunction or disease’: *Secretary, Department of Health and Community Services v JWB and SMB*, 1992, 175 CLR 218; 106 ALR 385.

\(^{73}\) ‘Forced sterilisation’ refers to the performance of a procedure which results in sterilisation in the absence of the consent of the individual who undergoes the procedure. This is considered to have occurred if the procedure is carried out in circumstances other than where there is a serious threat to health or life. This approach to naming sterilisation is underpinned by a human rights perspective which holds that all individuals have the right to bodily integrity. See: L Dowse & C Frohmader, 2001, *Moving Forward: Sterilisation and Reproductive Health of Women and Girls with Disabilities*. Women With Disabilities Australia (WWDA), Tasmania, Australia.


Australian Government has to date failed to substantially address and respond to any of the report’s recommendations.

For more than a decade now, disabled women and their supporters have been speaking out, demanding action to address what they see as an extreme human rights violation and calling for support services and compensation. They have maintained that non-therapeutic sterilisation is a question for adulthood not childhood, an act of violence and a form of social control, an irreversible medical procedure with profound physical and psychological effects, and a gross violation of an individuals human rights. As one of the key proponents advocating on the issue and calling for reform, WWDA has insisted that the Australian Government take all necessary steps to stop the forced sterilisation of disabled women and girls. This work has included calls for the Australian Governments to:

- develop universal legislation which prohibits sterilisation of any child unless there is a serious threat to health or life;
- address the cultural, social and economic factors which drive the sterilisation agenda;
- commit resources to assist disabled women and girls and their families and carers to access appropriate reproductive health care; and,
- create the social context in which all women and girls are valued and respected.

In August 2003, the Australian Standing Committee of Attorneys-General (SCAG) agreed that a nationally consistent approach to the authorisation procedures required for the lawful sterilisation of minors was appropriate, and began the process of developing draft legislation in this area. In November 2006, the SCAG released for consultation with a small number of ‘selected stakeholders’, its draft Bill (Children with Intellectual Disabilities (Regulation of Sterilisation) Bill 2006) which set out the procedures that jurisdictions could adopt in authorising the sterilisation of children who have an intellectual disability.

In March 2008, the SCAG decided that ‘there would be limited benefit in developing model legislation’ and the issue of sterilisation of intellectually disabled minors was removed from the SCAG Agenda. Ministers also agreed to ‘review current arrangements to ensure that all tribunals or bodies with the power to make orders concerning the sterilisation of minors with an intellectual disability are required to be satisfied that all appropriate alternatives to sterilisation have been fully explored and/or tried before such an order is made’. There is no evidence to date that these reviews have been conducted.

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78 For an overview of WWDA’s work on Sterilisation, see: Sterilisation of Women and Girls with Disabilities at www.wwda.org.au/sterilise.htm
79 The Standing Committee of Attorneys-General (SCAG), is the national ministerial council made up of the Australian Attorney-General and the State and Territory Attorneys-General. SCAG provides a forum for Attorneys-General to discuss and progress matters of mutual interest. It seeks to achieve uniform or harmonised action within the portfolio responsibilities of its members.
Despite strong condemnation of forced sterilisation from many sources including women’s organisations, disability rights organisations and international and national human rights bodies\(^{82}\), disabled women and girls in Australia still experience, and face a serious threat of forced sterilisation. The United Nations Committee on the Rights of the Child has criticised the Australian Government for its regulation of the practice of sterilisation in light of its status as a breach of children’s human rights\(^{83}\). Yet despite this, Australian legislation still fails to prohibit non-therapeutic sterilisation of minors. The Australian Government’s Fourth Report to the UN under the Convention on the Rights of the Child\(^{84}\), submitted in 2009, suggests that the Government remains of the view that sterilisation is acceptable for disabled children [girls]:

> A blanket prohibition on the sterilisation of children could lead to negative consequences for some individuals. Applications for sterilisation are made in a variety of circumstances. Sometimes sterilisation is necessary to prevent serious damage to a child’s health, for example, in a case of severe menstrual bleeding where hormonal or other treatments are contraindicated. The child may not be sexually active and contraception may not be an issue, but the concern is the impact on the child’s quality of life if they are prevented from participating to an ordinary extent in school and social life.

Disabled women and their advocates have condemned the Australian Government for framing sterilisation as a disability issue as opposed to a human rights issue, inferring that sterilisation is acceptable for disabled children [girls], and for suggesting that prohibiting sterilisation of minors will somehow adversely impact on disabled children [girls]\(^{85}\). WWDA has strongly recommended to the Australian Government/s that the issue of sterilisation of intellectually disabled minors remain as a standing item on the SCAG agenda until such time that universal legislation has been developed which prohibits sterilisation of any child unless there is a serious threat to heath or life. However, WWDA’s recommendation has, to date, been rejected, and the Federal Attorney-General, Hon Robert McLelland has recently dismissed the issue:

> While appreciating your organisation’s long advocacy on this issue……..I do not propose at this time to develop Commonwealth legislation or to pursue the issue further through SCAG\(^{86}\).

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83 In considering Australia’s report under Article 44 of the CRC (Fortieth Session), the Committee on the Rights of the Child encouraged Australia to: “prohibit the sterilisation of children, with or without disabilities”. United Nations Committee on the Rights of the Child, Fortieth Session, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Australia, CRC/C/15/Add.268, 20 October 2005, paras 45, 46 (e).


86 Hon Robert McLelland (Attorney-General) Correspondence to Women With Disabilities Australia (WWDA), 27 August, 2009.
There have been no instances in Australia where authorisations to sterilise have been sought for minors without disabilities in the absence of a threat to life or health. The sterilisation of a child in circumstances other than where there is a serious threat to the health or life of that child effectively denies the child present and future enjoyment of her or his human rights. Children with disabilities have the same right as children without disabilities not to be sterilised. The Australian Government claims that it is committed to ‘work to promote human rights and the fundamental equality of all people’\textsuperscript{87}, however, it appears that this does not include protecting the fundamental right of women and girls with disabilities to bodily integrity.

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\textbf{What Women With Disabilities Have Said About Sterilisation:} \\
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“The experiences of women with disabilities who have been sterilised or who have their reproductive rights infringed must be acknowledged and recognised.” \\
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“It has resulted in loss of my identity as a woman, as a sexual being.” \\
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“I have been denied the same joys and aspirations as other women.” \\
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“It stops us from having children if we want to.” \\
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“Because I have had important parts of my body taken away it is hard to find out what is really going on in my body.” \\
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“I worry about the future health effects like osteoporosis and other problems.” \\
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“The fact that services are not there is no reason for sterilisation.” \\
\hline
“A world in which government cannot be bothered to investigate potential illegal medical assault on nearly 200 of its citizens, in which those with no authority feel free to make decisions which are blatantly against the law and to carry out serious and irreversible procedures on those with little or no capacity to give or withhold consent, is a world in which people with disabilities can have no certainty or confidence about their human being or their future.........” \\
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\textsuperscript{87} McClelland, R. (2009) Op Cit.
3.12. Armed Conflict/Refugees

Long-term detention, by its nature, is widely recognised as having a seriously debilitating effect on the health of detainees. Specific health problems facing refugees can include: psychological disorders such as post traumatic stress disorder, anxiety, depression and psychosomatic disorders; poor oral health; delayed growth of children; or under recognised and under managed hypertension, diabetes. For refugees and humanitarian visa holders, these mental health issues may actually be compounded by experiences of immigration detention and uncertainty over their future in Australia. Recent Australian research has found that mental health of detainees deteriorates significantly during immigration detention, and numerous instances of self-harming behaviour have occurred, including among children. Despite previous recommendations from the Committee against Torture and repeated calls by the Australian Human Rights Commission and other human rights bodies, the Australian Government maintains a policy of indefinite mandatory detention of asylum-seekers.


3.13. New and Emerging Issues

3.13.1. The right to found and maintain a family and the right to reproductive freedom

Reproductive rights and freedoms rest on the recognition of the basic rights of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes the right to make decisions regarding reproduction free of discrimination, coercion and violence. For women with disabilities, reproductive rights and freedoms include the right to bodily integrity, the right to procreate, the right to sexual pleasure and expression, the right for their bodies to develop in a normal way, the right to sex education, to informed consent regarding birth control, to terminate a pregnancy, to choose to be a parent, and to access reproductive information, resources, medical care, services, and support.

Although the right to ‘found a family’ and to ‘reproductive freedom’ is clearly articulated in a number of international human rights instruments to which Australia is a signatory, for many women with disabilities in Australia, such fundamental human rights are not realisable. Instead, women with disabilities have traditionally been discouraged or denied the opportunity to bear and raise children. They have been, and continue to be perceived as asexual, dependent, recipients of care rather than care-givers, and generally incapable of looking after children.

In Australia, the denial of the right to reproductive freedom and the right to found and maintain a family takes many forms for women with disabilities, impacting directly and indirectly on their health status.

Examples include:

- coerced abortions, pressure to undergo tubal ligations and hysterectomies, and unlawful sterilisation;
- forced contraception through the use of menstrual suppressant drugs;
- systematic denial of appropriate reproductive health care and sexual health screening;
- limited contraceptive choices, including a focus on menstrual control;
- denial of, discrimination and inequitable access to, assisted reproductive technologies;

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94 See for example: International Covenant on Economic, Social and Cultural Rights (Article 10); International Covenant on Civil and Political Rights (Article 23); Convention on the Elimination of All Forms of Discrimination against Women (Article 16); Convention on the Rights of Persons with Disabilities (Article 23).
97 For a detailed discussion of these issues, see: Women With Disabilities Australia (WWDA) (2009) OpCit
• invisibility in maternity, obstetric and related health care policies, programs and services, including poorly managed pregnancy and birth;
• the denial of rights to be a parent based solely on the fact of disability;
• removal of babies/children from women with intellectual disabilities, women with mental health illnesses and women with psychiatric disabilities;
• discriminatory attitudes and widely held prejudicial assumptions which question their ability and indeed, their right to experience parenthood;
• lack of appropriate, adapted equipment to help disabled women in their parenting;
• lack of financial support, coupled with the higher cost of parenting with a disability;
• lack of, and difficulty in accessing, appropriate parenting information, services and support in a host of areas – including preconception, pregnancy, birth, postpartum, and the varying stages of child rearing, as well as in areas such as adoption, assisted reproduction, and broader sexuality and reproductive health issues and care;
• political agendas and social commentaries which cast their children as ‘young carers’ at risk of parentification and themselves as burdens of care.

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**What Women With Disabilities Have Said About Parenting:**

"If a woman with a disability has a baby, she may get some support for her own needs, but not for the baby's needs."

"For women with disabilities, pregnancy and parenting is seen as controversial: "If you can't look after yourself, having a baby is irresponsible!""

"If we do have a child we get asked if it is ours, “Who is the parent?” “Where is the parent?” or “Why are you holding it?”"

"When I’m out with my girls, people don’t expect that I’m their mother."

"....the problems we face are because there is a perceived contradiction between being a parent and being disabled, as if you can’t actually be both."

"There is no coordination point for disabled pregnant women. Maternity services don’t know anything about disability and disability services don’t know anything about pregnancy. We just fall through the gaps."

"I can’t speak highly enough of Technical Aid to the Disabled. They were wonderful in working out a solution for an adaptable cot. But they are all volunteers, and we shouldn’t have to rely on the goodwill of others to assist us in what is essentially our right - and that is, our right to parent."

"My child has been teased at school because his mother is disabled."

"I had a pretty good experience when I was in hospital having my daughter. The nurses were nice but it was clear that there were no standard procedures or guidelines for addressing the needs of women with disabilities before, during and after childbirth.”"
3.13.2. Research and Data Collection

Over the last decade, WWDA has found that one of the greatest difficulties in determining and substantiating the needs and human rights violations of women with disabilities is the acute lack of available gender and disability specific data in Australia - at all levels of Government and for any issue. There is also an alarming lack of Australian research on gender and disability issues, despite the multiple discriminations and human rights violations experienced by women and girls with disabilities in this country. This neglect in research of women with disabilities in Australia has been highlighted by the United Nations Committee on the Elimination of All forms of Discrimination Against Women (CEDAW)\textsuperscript{98}. Data, research and information about women with disabilities is necessary to guide and inform policy, direct funding, and inform service development. It also enables the monitoring of equality of opportunity and progress towards the achievement of economic, social, political and cultural rights for women with disabilities. The lack of data, research and information about women with disabilities results in invisibility and marginalisation in society, which invariably leads to a critical lack of resources for this group.