

Equality and non-discrimination

NGO Coalition Fact Sheet 4 (LOIPR 9)

Australia's anti-discrimination laws (page 20-21)

Current Australian anti-discrimination laws are inadequate, inconsistent, limited and fail to meet the obligations under articles 2 and 26 of the ICCPR.

There has been recent expansion of protections for relationship status, sexual orientation, gender identity and intersex status, however, many attributes are not adequately protected at the federal level including religion, political opinion, criminal record, and domestic/family violence survivor status.

The reform to consolidate federal anti-discrimination law was abandoned in 2013 and the separate laws that deal with the different grounds of discrimination act as a barrier for people to bring discrimination complaints. Additionally, numerous exemptions and exceptions that act as a defence to discrimination complaints result in conduct that would otherwise be unlawful being permitted.

The process of bringing a discrimination complaint places an unfair burden on complainants who bear the onus of proof. Complainants have limited access to effective remedies as the time limit to make a complaint has recently been reduced to 6 months

Australia should:

- **Enact a comprehensive Equality Act that will address all the prohibited grounds of discrimination, promote substantive equality and provide effective remedies.**
- **Amend the Australian Human Rights Commission Act 1986 (Cth) to reinstate the 12-month time limit to lodge a discrimination complaint.**
- **Make the Federal Court and Federal Circuit Court a no cost jurisdiction for discrimination complaints.**

Discrimination endorsed by the Constitution (page 21)

Currently the Australian Constitution does not enshrine the right to equality, but instead expressly permits the government to pass laws that adversely discriminate against people based on race.

Australia should ensure that the right to non-discrimination and equality is acknowledged and respected in the Australian Constitution.

Rights of older people (page 21)

The rights of older people are not sufficiently protected in Australia.

There is an absence of a national plan and a comprehensive legislative and policy framework on elder abuse; an absence of a regulatory framework for restrictive practices and interventions in aged care; and an absence of laws about family agreements and resolution of disputes over "assets for care" arrangements.

Australia should should enact uniform national laws protecting older persons from abuse, neglect and exploitation and ensuring older people are involved in decisions about their health and care, and introduce a regulatory framework for restrictive practices and interventions in aged care.