

## AUSTRALIA

### 1. Discriminatory family code

The Marriage Act of 1961 guarantees equal rights to women and men in respect to marriage and family. The law guarantees no marriage shall be entered into without the free and full consent of the intending spouses; and prohibits bigamy,<sup>1</sup> though domestic law recognises polygamous unions entered into outside of Australia.<sup>2</sup> Section 11 of the Marriage Act sets the **minimum age of marriage** at 18 years for both sexes or 16 in the event that the court determines that there are ‘exceptional circumstances’ accompanied with the parents’ consent.<sup>3</sup>

Concerning **early marriage**, there have been reports of forced marriages involving underage girls in a number of States, particularly among migrant communities; although the extent of the problem is difficult to quantify as it is usually kept secret.<sup>4</sup> The Commonwealth Criminal Code Act 1995 was amended in 2013 to recognise forced marriage as a crime.<sup>5</sup> Figures from the 2011 census indicate that there were 604 de facto relationships in the State of New South Wales among people born in Australia aged 14-17, while there were 63 de facto relationships of people aged 14-17 who were born overseas.<sup>6</sup>

The federal law does not officially recognize any customary laws or personal laws, although some states have limited recognition of Indigenous traditional marriages for certain purposes, including wills and inheritance.<sup>7</sup> There is evidence that customary marriage practices are still carried out in some Aboriginal and Torres Strait Islander communities, particularly in remote areas of the country, including: child betrothal or ‘promised marriages’; underage marriage; and polygamy.<sup>8</sup> In some remote Indigenous communities it is not uncommon for girls to have arranged marriages when they are 16 or 17 years old.<sup>9</sup> However, a 2012 national inquiry into customary practices has found that Aboriginal and Torres Strait Islander traditional marriage rules and institutions have diminished in importance and polygyny has also declined, particularly in communities where colonial mission influences were strong, but also, more generally, under the impetus of economic change.<sup>10</sup>

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<sup>1</sup> Marriage Act 1961, s 94

<sup>2</sup> Family Law Act 1975, s 6

<sup>3</sup> Marriage Act 1961, ss 12-14

<sup>4</sup> National Children’s and Youth Law Centre (2013)

<sup>5</sup> Amended by the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013

<sup>6</sup> ABS (2011)

<sup>7</sup> ALRC (2012), para 341

<sup>8</sup> ALRC (2012), para 225

<sup>9</sup> Koorie Women Mean Business, Indigenous Law Centre UNSW, YWCA Australia (2009), p.69

<sup>10</sup> ALRC (2012), para 227

Equal **inheritance rights** for sons and daughters are enshrined in the Succession Act 2006.<sup>11</sup> Upon separation, property is divided by considering financial and non-financial contributions to the relationship and the future needs of the parties to the relationship.<sup>12</sup> Although there is no evidence that women are generally discriminated against in Australian terms of inheritance, some academics have observed that Aboriginal and Torres Strait Islander's customary inheritance laws are based on a complex kinship system, some of which is centred on gender-specific rules concerning access to knowledge and certain sites.<sup>13</sup>

### **More**

Both men and women have equal rights to initiate **divorce** in Australia pursuant to the Family Law Act 1975, a Commonwealth Act, which governs issues of divorce, parenting arrangements and financial matters.<sup>14</sup> Arrangements for children are decided by considering what is in their best interests and there is a presumption that it is in the best interests of children for parents to have equal shared **parental authority** unless there is evidence to the contrary, including reasonable grounds to believe there is family violence.<sup>15</sup> In traditional Aboriginal and Torres Strait Islander communities, extended family networks often are responsible for caring for children, through a system of informal adoption.<sup>16</sup>

## **2. Restricted physical integrity**

**Domestic and family violence** against women is addressed under six separate State legal frameworks,<sup>17</sup> prompting the Convention on the Elimination of all forms of violence against Women (CEDAW) Committee to express concern in 2010 over the lack of federal legislation or minimum standards for protection of women against violence and domestic violence.<sup>18</sup> In most jurisdictions domestic violence includes stalking, and covers a wide range of relationships including, spouses, de facto partners (including same sex partners), children and step-children, and other 'relatives'; The definition of 'family member' has been extended to include Aboriginal kinship relationships in several state level domestic violence Acts, including the *Family Violence Protection Act 2008 (VIC)* the Crimes (Domestic and Personal Violence) Act (NSW) (s5(h)) and the Domestic and Family Violence Act 2007 (Northern Territory).<sup>19</sup> Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011 has resulted in an expanded definition of family violence in family law proceedings, including financial abuse, attempts to isolate from family members and friends and a child's exposure to family violence.

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<sup>11</sup> Succession Act, s 127

<sup>12</sup> Family Law Act 1975, ss79(4) and 90SM(4)

<sup>13</sup> Vines (2007)

<sup>14</sup> ALRC (2012), para 344

<sup>15</sup> Family Law Act 1975, s 61DA

<sup>16</sup> ALRC (2012), para 344

<sup>17</sup> New South Wales: Crimes (Domestic and Personal Violence) Act 2007; Domestic and Family Violence Protection Act 1989 (Qld); Domestic Violence Act 1994 (SA); Family Violence Act 2004 (Tas); Family Violence Protection Act 2008 (Vic); Restraining Orders Act 1997 (WA); Domestic Violence and Protection Orders Act 2008 (ACT); Domestic and Family Violence Act 2007 (NT)

<sup>18</sup> CEDAW (2011), p.5

<sup>19</sup> Family Violence Protection Act (2008) (Victoria), s 8; *Crimes (Domestic and Personal Violence) Act 2007*(New South Wales), s5(h); Domestic and Family Violence Act 2007 (Northern Territory) (s 10(2))

In order to support the implementation of the law, the Government of Australia has established a National Council to Reduce Violence against Women and Children that has developed and a National Plan to Reduce Violence against Women and their Children 2010 – 2022.<sup>20</sup> There are federally funded rape crisis centres in every State and Territory, as well as several specialized sexual and assault units within some State police forces. In 2009 the Government reported that each State and Territory was implementing a number of women’s safety policies, establishing safe houses, conducting legal reviews and public campaigns to help improve existing responses to women and girls experiencing violence.<sup>21</sup> In addition, the majority of States have established specialist family violence courts and legal aid services that provide referral and advocacy, as well as applicant support, respondent support workers and outreach.<sup>22</sup> Some States have also invested in training and guidelines for law enforcement.<sup>23</sup> Under the National Plan the Australian Government has established the Foundation to Prevent Violence against Women and their; and Australia’s National Research Organization for Women’s Safety. There has also been increasing recognition of support for workers experiencing domestic and family violence, with over one million Australian workers in 2013 being able to avail clauses in their workplace agreement and award conditions<sup>24</sup>. In addition the *Fair Work Act 2009* (Cth) was amended in 2013 to provide for employees who are experiencing family violence or who are caring or supporting a family or household member who is experiencing family violence to request flexible working arrangements.

The most recent Australian bureau of Statistics (ABS) Personal Safety Survey indicates that in 2012, an estimated 17% of all women aged 18 years and over had experienced violence by a partner since the age of 15; 4.9% of whom had experienced sexual violence at the hands of a domestic partner. The Institute of Criminology estimates that one woman is killed every week by her current or former partner, often after a history of domestic violence. Intimate partner homicides account for just over one-fifth of all homicides in the country, and research from the State of Victoria confirms that domestic violence is the leading contributor to death, disability and illness of women in Victoria under the age of 45. There is no national register for apprehended violence orders (protection orders).<sup>25</sup>

A review of the ABS Crime Victimization Survey (2011-2012) suggests that, of those surveyed, fewer than 50% who had experienced domestic violence in that year had reported it to the police.<sup>26</sup> Government survey data from 2009 revealed that, while 98% of the population believe that domestic violence is a crime; only 53% recognised ‘slapping or pushing a partner to cause

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<sup>20</sup> AHRC (2010), p.20

<sup>21</sup> CEDAW (2009), p. 109-110

<sup>22</sup> CEDAW (2009), p.113

<sup>23</sup> CEDAW (2009), p.113

<sup>24</sup> Ludo McFerran, Safe at Home, Safe At Work Project, Australian Domestic and Family Violence Clearing House, UNSW, ‘When domestic violence becomes a workplace problem’, ABC The Drum Opinion 13 February 2013. At <http://www.abc.net.au/unleashed/4516492.html> (viewed 8 April 2013).

<sup>25</sup> ABS (2012)

<sup>26</sup> White Ribbon Australia (2013), p.5

harm or fear' as 'very serious', and 49% believed that 'women going through custody battles often make up or exaggerate claims of domestic violence in order to improve their case.'<sup>27</sup>

Every State-based jurisdiction in Australia has its own legislation for sexual offences, including **rape** and a range of other sexual assaults.<sup>28</sup> In general, current legal conceptions of sexual assault are based on the premise of 'positive' consent, requiring proof that both parties actively demonstrated their willingness to engage in that act, either verbally or through their physical actions. Submission to sexual advances, or presumption, is not enough to demonstrate consent. State laws has also introduced limitations in regard to the type of evidence that may be introduced about a complainant's sexual history.<sup>29</sup>

Violence against women, including sexual violence, remains a significant problem in Australia. The most recent 2012 Australian Bureau of Statistics (ABS) Personal Safety Survey indicates that, during the 12 months prior to the survey, 5.3% of all women over 18 years of age had experienced some form of violence, most of which was physical and sexual violence; with the most common perpetrators being persons known to the victim. 34% of women have experienced physical violence since the age of 15.<sup>30</sup> It was also found that an estimated 17% (1,494,000) of all women aged 18 years and over had experienced sexual assault since the age of 15.<sup>31</sup>

Despite these figures, the ABS's 2012-2013 Crime Victimization Survey shows that fewer than 50% of women who had experienced violence, and 25% of those that had experienced sexual violence, reported it to the police.<sup>32</sup> There is evidence that underreporting may be linked to a lack of trust in the justice system, with recent studies indicating that, while the numbers of reporting and of prosecutions for sexual assault are increasing slightly, the numbers of convictions are falling.<sup>33</sup> One 2007 study found that when sexual assault cases are heard in the higher courts by a judge and jury, over half result in acquittal; lower than for any other crime.<sup>34</sup>

In 2009 a number of NGOs reported to the CEDAW Committee that poor implementation of the legislative framework could be attributed to: attitudes of the police; attitudes of prosecutors; attitudes of the judiciary; a reliance on jury trials (they are more likely to acquit the accused); and processes and procedures that re-traumatise victims.<sup>35</sup> Although these social attitudes are changing, they remain an impediment to combatting sexual violence. For example, 2009 Government survey data on attitudes to violence against women found that, while fewer people

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<sup>27</sup> Australian Government (2009), p.7-8

<sup>28</sup> Crimes Act 1900 (ACT); Crimes Act (NSW) 1900; Criminal Code Act (NT) 1983; Criminal Code Act (Qld) 1899; Criminal Law Consolidation Act (SA) 1935; Criminal Code Act (Tas) 1924; Crimes Act (Vic) 1958; Criminal Code Act (WA) 1913

<sup>29</sup> ACSSS (2011)

<sup>30</sup> Australian Bureau of Statistics, *Personal Safety Survey 2012* (2013).

<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4906.0Main%20Features12012?opendocument&tabname=Summary&prodno=4906.0&issue=2012&num=&view=> (viewed 20 November 2013).

<sup>31</sup> ABS (2012)

<sup>32</sup> NBS (2014)

<sup>33</sup> Brentnall (2012), p.29

<sup>34</sup> Taylor (2007)

<sup>35</sup> CEDAW NGO Report (2009), p.106

now support the notion that ‘women often say no when they mean yes’, (13% in 2009, compared to 18% in 1995); and significantly fewer people in the general community believed that ‘women who are raped often ask for it’ (5%, down from 15% in 1995); substantial proportions of Australian still agree that rape occurs because of men ‘not being able to control their need for sex’ (34% in the general community).<sup>36</sup>

Aboriginal and Torres Strait islander women are 45 times more likely to be victims of domestic and family violence<sup>37</sup> and 35 times more likely to be hospitalised as a result of violence-related assault than non-Indigenous women in Australia.<sup>38</sup> Advocates have criticized the lack of inclusive services and programmes for women with disabilities experiencing or at risk of experiencing violence.<sup>39</sup>

**Sexual harassment** is defined in the *Sex Discrimination Act 1984* as any unwelcome sexual advance, request for sexual favours or conduct of a sexual nature in relation to the person harassed in circumstances where a reasonable person would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.<sup>40</sup> In 2011 the Government strengthened protections in schools to protect students from sexual harassment regardless of their age, and prohibited sexual harassment conducted through new technologies (e.g over the internet, or through social media or texting).<sup>41</sup> However, the Australian Human Rights Commission reports that the Act still does not contain a general prohibition against sexual harassment in any area of public life, or the positive obligation on employers to take all reasonable steps to avoid sexual harassment in their workplace.<sup>42</sup>

Every year, sexual harassment is one of the most common grounds of complaint under the Federal Sex Discrimination Act.<sup>43</sup> The Australian Human Rights Commission National Telephone Survey (2012) found that 33% of women had been sexually harassed since the age of 15, and 25% of women aged 15 years and older had experienced sexual harassment in the workplace in the past five years. The main groups perpetrating sexual harassment towards women in the workplace are co-workers (45%), boss/employer (17%), supervisor (13%), and client/customer (11%). 79% of harassers were men. Only 22% of women made official complaints about the workplace sexual harassment: out of these, only 46% said the harassment ceased after the complaint.<sup>44</sup>

There is some anecdotal evidence that **female genital mutilation** is practiced in Australia, although official figures are not available.<sup>45</sup> In all Australian jurisdictions it is an offence for a person to perform any type of female genital mutilation, regardless of the consent of the parent

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<sup>36</sup> Australian Government (2009), p.8

<sup>37</sup> C Cunneen (2005), p. 242

<sup>38</sup> Steering Committee for the Review of Government Service Provision (2005), p 26

<sup>39</sup> WWDA (2009), p.19

<sup>40</sup> Sex Discrimination Act 1984, s28(a)

<sup>41</sup> Sex Discrimination Legislation Amendment Act 2011 (Cth)

<sup>42</sup> AHRC (2013)

<sup>43</sup> AHRC (2013)

<sup>44</sup> AHRC (2012)

<sup>45</sup> Australian Government (2013)

of guardian, with exceptions granted for legitimate medical purposes. Penalties range from seven to 21 years' imprisonment. All State and Territory offences also operate extraterritorially to protect Australian residents from being subjected to female genital mutilation outside their jurisdiction of residence, including overseas.<sup>46</sup>

The Government funds family planning and antenatal services, which generally provide free sexual and reproductive advice.<sup>47</sup> However, some restrictions on the **reproductive autonomy** of marginalized Australian women have been reported. For example, disability rights advocates have criticized the practice of forced sterilisation of women with disabilities, particularly those with intellectual disabilities.<sup>48</sup> The Senate Committee Inquiry into Involuntary and Coerced Sterilisation of People with Disabilities in Australia (2013) recommended that for a person with a disability who has the capacity to consent, or to consent where provided with appropriate decision making support, sterilisation should be banned unless undertaken with that consent; and that each jurisdiction enact legislation prohibiting the performance or procurement of unauthorised sterilisation procedures: and also make it an offence to take, attempt to take, or to knowingly assist a person to take, a child or an adult with a disability overseas for the purpose of obtaining a sterilisation procedure.<sup>49</sup>

### **More**

Australia has been identified as a destination country for women subjected to **forced prostitution, trafficking and forced labour**.<sup>50</sup> In order to combat the practice, Australia has comprehensively criminalized all trafficking-related activity, including sexual servitude, with penalties of up to 25 years' imprisonment in aggravated circumstance.<sup>51</sup> The *Crimes Legislation Amendment (Slavery, slavery-like Conditions and People Trafficking) Act 2013* creates a number of new offences including the offence of forced marriage, forced labour and organ trafficking, and strengthens provisions of the *Criminal Code Act 2005* (Cth) relating to trafficking, slavery and slavery-like offences. In terms of victim support, the Government provides access to accommodation, temporary visa status, living expenses, legal advice, health services, and counselling, through the 2009 Support for Victims of People Trafficking Programme and the People Trafficking Visa Framework.<sup>52</sup> However, the benefits of these schemes are dependent on the victim's cooperation with an investigation or prosecution of a trafficking offense, which may put the victim or their family at risk of reprisals.<sup>53</sup>

Each State jurisdiction in Australia has different legislation and case law governing the circumstances when pregnancy can be terminated legally. **Abortion** has been decriminalized in three States (Victoria, Australian Capital Territory, and Tasmania). And, while abortion is

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<sup>46</sup> Australian Government (2013)

<sup>47</sup> CEDAW (2009), p.81

<sup>48</sup> WWDA (2009)

<sup>49</sup> Senate Community Affairs Reference Committee, *Involuntary or coerced sterilisation of people with disabilities in Australia* (2013), pp. IX-XIV

<sup>50</sup> State Department (2013), p.78

<sup>51</sup> Division 270 of the Criminal Code Act 1995

<sup>52</sup> CEDAW (2010), p.6

<sup>53</sup> US State Department (2013), p.79

available upon request in the Australian Capital Territory and Victoria, the remaining jurisdictions allow abortions in the event of threat to maternal life, rape, health, foetal defects, and mental health in South Australia and the Northern Territory; in addition to and economic factors, and/or social factors in New South Wales and Western Australia.<sup>54</sup> There is no law anywhere in Australia that requires the notification or consent of a woman's sexual partner; although in Western Australia a minor requires parental consent or notification.<sup>55</sup> The variation in legal protection across jurisdictions has prompted the CEDAW Committee to express concern over inconsistent approach with regard to the imposition the availability of criminal sanctions.<sup>56</sup>

UN figures indicate that 68.1% of women used some form of modern **contraceptive**.<sup>57</sup> Additionally, advocates have reported significantly high levels of sexually transmitted infections in Aboriginal and Torres Strait Islander women, and have complained about a lack of preventative screening for diseases like cervical cancer.<sup>58</sup>

### 3. Son bias

Australia currently has a male/female **sex ratio** for the working age population (15-64) is 1.03 and the sex ratio at birth is 1.06 male(s)/female.<sup>59</sup>

#### **More**

Data on infant mortality in Australia does not suggest a son bias. Roughly equal numbers of girls enrol in both primary and secondary schooling.<sup>60</sup> With respect to access to education, statistics on numeracy and literacy have been disaggregated only by sex or race. As such it remains difficult to estimate the numeracy and literacy achievements of Aboriginal and Torres Strait Islander girls, although anecdotal evidence from NGOs indicates that Indigenous girls living in remote communities may be less likely attend school as a result of their increased family responsibilities.<sup>61</sup>

### 4. Restricted resources and assets

Women in Australia have the right to non-discrimination in the **ownership and access to land**. There is limited data available in terms of women's ownership of property and land in the society in general. However there is evidence that some gender disparities continue to exist under customary law as practiced by Aboriginal and Torres Strait Islanders. Under the framework of 'native title' Australian law recognizes that some Indigenous people have rights and interests to land stemming from their traditional laws and customs, including the right to access, occupy, utilize or use land for traditional purposes.<sup>62</sup> The access to native title land

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<sup>54</sup> Children by Choice (2013)

<sup>55</sup> Children by Choice (2013)

<sup>56</sup> CEDAW (2010), p.3

<sup>57</sup> UN (2012 (b)

<sup>58</sup> Koorie Women Mean Business (2009), p.53

<sup>59</sup> CIA. <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html> (accessed 28/03/2014)

<sup>60</sup> UNICEF (n.d)

<sup>61</sup> Koorie Women Mean Business (2009), pp. 36-37

<sup>62</sup> Native Title Act 1993 (Cth)

differs for men and women in some circumstances, for example in relation to gender-specific traditional and hunting uses.<sup>63</sup> Additionally, Indigenous NGOs have reported that women remain under-represented on Aboriginal and Torres Strait Islander land and community councils (which are responsible for assisting Indigenous peoples to acquire and manage their traditional lands and seas), where men make the majority of the decisions and are considered to be the community spokespersons.<sup>64</sup> As a result, Indigenous women are not equally represented during the decision-making around resource development projects, such as mining lease negotiations.<sup>65</sup>

Women also have the right to non-discrimination in relation to non-land assets, and have **equal rights to non-land assets** regardless of their marital status.<sup>66</sup> However, in practice, NGOs have reported that domestic violence victims experience discrimination in the provision of housing,<sup>67</sup> and that family violence is one of the leading causes of homelessness in Australia.<sup>68</sup> In addition a UN expert has called attention to discrimination in the public housing system experienced by Indigenous women by means of rigorous enforcement of a requirement for referees, which is not exercised for non-Indigenous women.<sup>69</sup>

Women in Australia have the **equal right to financial services**: they can freely enter into contracts and apply for bank loans and other types of credit, and it is unlawful for anyone who provides banking or insurance facilities to discriminate against a person on the grounds of gender. According to 2011 World Bank data, women were marginally less likely to have an account with a financial institution (98.6% versus 99.6% of men), or to have obtained a loan from a financial institution (15.3% of women, compared with 18.9% of men) in the previous year.<sup>70</sup> In 2009 the Government reported that it provided some micro-credit programmes for women in business to increase business planning and management skills among women and provide start-up financial assistance packages to successful applicants.<sup>71</sup>

### **More**

The **labour force participation** rate of women in Australia was at 58.9% in June 2013.<sup>72</sup> The **gender pay gap** is the difference between women's and men's average weekly full-time equivalent earnings, expressed as a percentage of men's earnings. Using the Australian Bureau of Statistics' Average Weekly Full-Time Earnings data (cat. no. 6302.0), the national gender pay gap is currently 17.1% and has remained between 15% and 18% for the past two decades.<sup>73</sup>

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<sup>63</sup> ALRC (2013), s 33

<sup>64</sup> Koorie Women Mean Business (2009), p. 32-33

<sup>65</sup> RCIP (2013)

<sup>66</sup> The Married Persons (Equality of Status) Act of 1996, s 4

<sup>67</sup> Australian Women against Violence Alliance (2012)

<sup>68</sup> CEDAW (2009), p.29

<sup>69</sup> HRC (2007)

<sup>70</sup> World Bank (2011)

<sup>71</sup> CEDAW (2009), p.90

<sup>72</sup> Australian Bureau of Statistics, *Labour Force Australia, June 2013, ABS cat. no. 6202.0* (2013)

<sup>73</sup> Workplace Gender Equality Agency, <https://www.wgea.gov.au/learn/about-pay-equity>

There is also a **gender gap in retirement incomes** and savings, where the average superannuation payments of women is almost half (57%) to that of men.<sup>74</sup> Further, single elderly female households experience the highest incidence of poverty compared to other household types, and are at the greatest risk of persisting poverty.<sup>75</sup>

According to the Australian Human Rights Commission, the gender gap in retirement incomes and savings arises from the linking of the retirement income system, specifically superannuation, to engagement in paid work and level of earnings: which is influenced by women's disproportionate responsibility for unpaid work as well as their lower pay relative to men.<sup>76</sup> Unpaid care work for children or family member or friend with disability, chronic illness or frailty due to older age is a significant issue for Australian women, with 41% of women aged between 15 and 64 in Australia holding responsibilities for unpaid care<sup>77</sup>, and females spending more than twice the amount of time as males caring for children daily.<sup>78</sup> Women also comprise 92% of primary carers for children with disabilities and 70% of primary carers for parents.<sup>79</sup> The unpaid care work undertaken predominantly by women, is a significant contributor to the low levels of retirement incomes and savings of women. Additionally survey data from 2005 found that women were over-represented in groups displaying lower levels of financial literacy in Australia, and that lower levels of financial literacy were related to lower retirement savings balances.<sup>80</sup>

## 5. Restricted civil liberties

Women enjoy **access to public space**, such as freedom of assembly, freedom of expression, and collective action in Australia, and there is no evidence that there is institutional discrimination against women's associations or NGOs. Australia has an active civil society that addresses a wide variety of women's issues.<sup>81</sup> In March 2010, the Australian Government funded six new National Women's Alliances to improve dialogue between women and the Australian Government on a range of policy issues facing Aboriginal and Torres Strait Islander women, women in rural region settings, and immigrant and refugee women.<sup>82</sup> Both men and women have the ability to obtain a passport and transfer citizenship to their children.

The Australian Government has not adopted **quotas** and targets to increase the number of women in political and public life or to ensure the equal representation of women in all publicly

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<sup>74</sup> R Clare (2011)

<sup>75</sup> B Heady and D Warren (2008), p. 55

<sup>76</sup> AHRC (2009)

<sup>77</sup> AHRC (2013d), p. 5

<sup>78</sup> ABS (January 2013)

<sup>79</sup> ABS (2009)

<sup>80</sup> CEDAW (2009)

<sup>81</sup> CEDAW (2010), p.2

<sup>82</sup> AHRC (2012), p.19

appointed bodies.<sup>83</sup> Voluntary party quotas exist since the 1980s. In 2013, women comprised 26% of parliamentary seats.<sup>84</sup>

Although it varies by State and Territory, representation of women in elected positions in local government is estimated at around 2%; with only around 5% of chief executive officer positions occupied by women.<sup>85</sup> Aboriginal and Torres Strait Islander women are still hugely under-represented at all levels of government.<sup>86</sup> Social commentators have attributed this under-representation to low numbers of women pre-selected, as well as the discriminatory and sexist treatment of female politicians in the media, particularly those in leadership roles.<sup>87</sup>

### **More**

With respect to women's **workplace rights**, the Federal Sex Discrimination Act 1984 prohibits discrimination on the grounds of sex, marital status, pregnancy or potential pregnancy, breastfeeding and family responsibilities.<sup>88</sup> In addition, each State and Territory Government has passed its own protections for women at work. However, in practice women and men returning to work are often demoted, forced to resign, or receive unfavourable treatment when they become pregnant or on return to work from parental leave.<sup>89</sup> In 2012 to 2013, 21% of complaints under the Sex Discrimination Act received by the Australian Human Rights Commission related to pregnancy discrimination and family responsibilities.<sup>90</sup> The Australian bureau of Statistics (ABS) 'Pregnancy and employment transitions 2012' data reveals that approximately 67,300 women employees (19%) felt that had experienced discrimination due to maternity circumstances<sup>91</sup>

In 2007, the Australian Government set a target to have males and females each represent 40% of all Australian Government boards by 2015.<sup>92</sup> As at 30 June 2013, women held 41.7% of positions on Government boards and bodies.<sup>93</sup>

The *Workplace gender Equality Act (2012)* aims to promote equal pay and participation, as well as remove gender-based discrimination, including in relation to family and caring responsibilities. In 2014, the Australian Human Rights Commission found that 49% of mothers reported experiencing discrimination in the workplace at some point during their pregnancy<sup>94</sup>, parental leave or on return to work. This discrimination most often occurred around pay,

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<sup>83</sup> AHRC (2010), p.17

<sup>84</sup> OECD (2014), *Gender, Institutions and Development Database*, <http://stats.oecd.org>

<sup>85</sup> Australian Local Government Association (n.d.)

<sup>86</sup> Koorie Women Mean Business (2009)

<sup>87</sup> Summers (2012)

<sup>88</sup> Sex Discrimination Act 1984 (Cth) s3

<sup>89</sup> AHRC (2013c)

<sup>90</sup> AHRC (2013)

<sup>91</sup> ABS (2012b)

<sup>92</sup> Australian Government Office for Women (2010)

<sup>93</sup> Department of Social Services..

<sup>94</sup> AHRC (2014)

conditions and duties, health and safety, performance assessments and career advancement opportunities, and negative attitudes.<sup>95</sup>

In 2011 the Australian Government introduced a **national paid parental scheme**, under which eligible working parents can get government-funded pay at the national minimum wage for up to 18 weeks.<sup>96</sup>

In 2010 the Australian Government announced the introduction of a paid parental scheme to begin on 1 January 2011.<sup>97</sup> New parents who are eligible can receive an amount equal to the National Minimum Wage as Parental Leave Pay funded by the government for up to 18 weeks.

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