



**Response to the  
Australian Law Reform Commission's  
Issues Paper 44  
*Equality, Capacity and Disability in  
Commonwealth Laws***

**Women With Disabilities ACT**

**May 2014**

## **Women With Disabilities Australian Capital Territory**

Women with Disabilities ACT (WWDACT) is a systemic advocacy and peer support organisation for women with disabilities in the ACT. WWDACT follows a human rights philosophy, based on the Convention on the Rights of Persons with Disabilities and the Convention on the Elimination of Discrimination against Women. WWDACT supports and encourages women with disabilities in the ACT to fully partake in every aspect of community life. WWDACT envisages a day when barriers for women with disabilities no longer exist.

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## INTRODUCTION

Women with Disabilities Act (WWDACT) welcomes the opportunity to respond to the Commission's *Issues Paper 44 "Equality, Capacity and Disability in Commonwealth Laws"*.

Our response is based on the Parliament of Australia's ability to make laws with respect to

- Census and statistics<sup>1</sup>
- External affairs<sup>2</sup>
- Matters incidental to the execution of any power vested in the Parliament<sup>3</sup>

This submission is limited to matters of special concern to our constituency; viz. women with disabilities.

In making this response WWDACT notes with pleasure the recent clarification by Committee on the Rights of Persons with Disabilities that:

*All practices that in purpose or effect violate article 12 (of the Convention on the Rights of Persons with Disabilities) must be abolished in order to ensure that full legal capacity is restored to persons with disabilities on an equal basis with others.*<sup>4</sup>

### 1. CENSUS AND STATISTICS

WWDACT urges the Commission to recommend changes to the collection and publication of census data and statistics in order to ensure that Commonwealth laws and legal frameworks<sup>5</sup> afford women with disability the opportunity to exercise their legal capacity on an equal footing with men. In this regard, we refer the Commission to our DAC Data Set Investigation Project Report (copy attached). The current absence of easily available data disaggregated by gender is in large part the reason why the specific needs of women with disabilities remain largely invisible in legislative policy circles.

### 2. MULTIPLE DISCRIMINATION

WWDACT strongly supports the express inclusion of multiple discrimination in all anti-discrimination legislation. We refer the Commission to our prior submission to the Exposure

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<sup>1</sup> Placitum 51 (xi) Commonwealth of Australia Constitution Act

<sup>2</sup> Placitum 51 (xxix) Commonwealth of Australia Constitution Act

<sup>3</sup> Placitum 51 (xxxix) Commonwealth of Australia Constitution Act

<sup>4</sup> Committee on the Rights of Persons with Disabilities General Comment No. 1 (2010) Article 12: Equal recognition before the law UN Doc. CRPD/C/GC/1 (April 2014)

<sup>5</sup> Australian Law Reform Commission Issues Paper 44 at para 18

Draft Legislation Human Rights and Anti-Discrimination Bill 2012 (Cth) (copy attached) for your information.

## **CONCLUSION**

WWDACT fully supports the framing principles of dignity; equality; autonomy; inclusion and participation; and accountability which could define the new policy settings in Commonwealth laws and legal policy.<sup>6</sup> However, just as the notion of disability must be nuanced to respect the differences between different life experiences of people with disabilities,<sup>7</sup> so too WWDACT believes it is time to approach these five framing principles in more nuanced, gendered manner. The days of sexless in principle aspirations are over. The lived experiences of women can no longer be considered a footnote in mainstream conversations or a “particular community” of interests. WWDACT urges the Commission to articulate its framing principles in a gendered manner; i.e. as they apply to women and to men. This is essential if these framing principles are to have any practical meaning or any real impact on the lives of individuals and/or groups of individuals in our society. We refer the Commission to our Facts Sheet: Women With Disabilities in the ACT (copy attached) which highlights some of the relevant gender differences.

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<sup>6</sup> Idem at paras 73-89 inclusive.

<sup>7</sup> Idem at paras 45,46,47