



***Submission to the Australian Government  
Consultation Paper: Family Violence – Improving  
Legal Frameworks***



***June 2010***

# ***'Submission to the Australian Government Consultation Paper: Family Violence – Improving Legal Frameworks'***

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*Winner, National Human Rights Award 2001*

*Winner, National Violence Prevention Award 1999*

*Winner, Tasmanian Women's Safety Award 2008*

*Certificate of Merit, Australian Crime & Violence Prevention Awards 2008*

*Nominee, French Republic's Human Rights Prize 2003*

*Nominee, UN Millennium Peace Prize for Women 2000*

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***'Labor recognises the particular  
vulnerability of people, particularly women  
with a disability, to domestic violence and  
will implement measures to address this.'***

(Australian Labor Party National Platform and Constitution 2007, p219)

# 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. It represents more than 2 million disabled women in Australia and operates as a national disability organisation; a national women's organisation; and a national human rights organisation. 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 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 fulfil, respect, protect and promote human rights and to support and empower women with disabilities, both individually and collectively, to claim their rights.

More information about Women With Disabilities Australia (WWDA) can be found on WWDA's extensive website at: [www.wwda.org.au](http://www.wwda.org.au)

## 2. Background & Context

In the lead up to the Federal election in late 2007, the Australian Labor Party (ALP) articulated its commitment to reducing violence in our community, including violence against women. In doing so, the ALP recognised the need to acknowledge the incidence and prevalence of family violence in all sectors of the Australian community and to accurately name and define family violence in all aspects of Labor Party policy making (ALP 2007).<sup>1</sup> The ALP specifically acknowledged the particular vulnerability of women with disabilities to violence and pledged to implement measures to address this (ibid). There is no evidence at this stage of such measures.

In 2008, the newly elected Rudd Labor Government established a National Council to Reduce Violence Against Women and Children, with the specific role of drafting a national plan to reduce violence

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<sup>1</sup> Australian Labor Party (2007) *National Platform and Constitution 2007*. Authorised by T. Gartrell, ALP National Secretary, Canberra City ACT. Accessed online March 2008 at: [www.alp.org.au](http://www.alp.org.au)

against women and their children. The resulting report, *Time for Action*,<sup>2</sup> was released in March 2009 and identified six core areas for improvement and strategies and actions to achieve them.<sup>3</sup> In July 2009, the Federal Attorney-General (Hon Robert McClelland) asked the Australian Law Reform Commission (ALRC) to conduct an Inquiry together with the New South Wales Law Reform Commission (NSWLRC) into particular questions in relation to family violence that had arisen from the Time for Action report. The ALRC was asked to consider the issues of:

- the interaction in practice of State and Territory family/domestic violence and child protection laws with the Family Law Act and relevant Commonwealth, State and Territory criminal laws; and
- the impact of inconsistent interpretation or application of laws in cases of sexual assault occurring in a family/domestic violence context, including rules of evidence, on victims of such violence.

In relation to both these issues, the ALRC was asked to consider ‘what, if any, improvements could be made to relevant legal frameworks to protect the safety of women and their children’.

In late April 2010, the ALRC and the NSWLRC released a 1022 page Consultation Paper for the Inquiry.<sup>4</sup> The Paper posed a range of questions, as well as options and proposals for reform. Detailed evidence and arguments underpinning the questions and proposals were provided. A short time frame was provided for responses to the Consultation Paper.

Due to the short timeframe for responses, WWDA has elected to focus its response to the Consultation Paper on issues canvassed in Section 4 (Family Violence: A Common Interpretive Framework?) and Section 19 (Integrated Responses and Best Practice), covering such themes as definitions, guiding principles, protected persons, training and education, and data collection.

### **3. Violence Against Women With Disabilities – A Brief Overview**

Despite increasing recognition of, and attention to, gender based violence as the ‘most widespread human rights abuse in the world’,<sup>5</sup> in Australia, violence against women with disabilities continues in a culture of silence, denial and apathy.<sup>6</sup> Women with disabilities continue to experience both high levels of domestic/ family violence and sexual assault, and have high levels of unmet needs in terms of access

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<sup>2</sup> National Council to Reduce Violence against Women and their Children (2009) *Time for Action: The National Council’s Plan for Australia to Reduce Violence against Women and their Children, 2009–2021*.

<sup>3</sup> The six ‘outcome areas’ listed are that: communities are safe and free from violence; relationships are respectful; services meet the needs of women and their children; responses are just; perpetrators stop their violence; and systems work together effectively.

<sup>4</sup> Commonwealth of Australia (2010) *Family Violence - Improving Legal Frameworks: Consultation Paper*. Australian Law Reform Commission Consultation Paper 1; NSW Law Reform Commission Consultation Paper 9. ALRC, Sydney.

<sup>5</sup> Krug, E., Dahlberg, L., Mercy, J., Zwi, A. & Lozano, R. (Eds) (2002) *World report on violence and health*. World Health Organisation, Geneva.

<sup>6</sup> K Raye, 1999, Violence, Women and Mental Disability. *Mental Disability Rights International*. Washington DC.

to domestic violence, sexual assault and related community support services. Compared to non-disabled women, women with disabilities experience violence at significantly higher rates, more frequently, for longer, in more ways, and by more perpetrators, yet programs and services for this group either do not exist or are extremely limited. In fact, responses to violence against women with disabilities are characterised by limited recognition by governments and the service sector of the nature and extent of the problem; inadequate research; incomplete or partial response structures, and scarce resources to support advocacy in the area.<sup>7</sup>

Violence against women with disabilities comes with legal, social, cultural, economic and psychological dimensions and costs. The lack of research and data collection on violence against disabled women remains one of the reasons for the lack of community intervention and specific programs and services. Disabled women and girls are greatly at risk of violence due to many factors, in particular their entrenched social exclusion. Poverty can also make them more vulnerable to violence,<sup>8</sup> as well as their impairment (such as inability to communicate using conventional means), dependence on others, and fear of disclosure. They often lack knowledge of their rights and of existing services and support. They may also experience low self-esteem and lack assertiveness.<sup>9</sup> Violence against disabled women and girls can occur in the home, the community, institutional settings and in the workplace.

Although the forms of violence for disabled women are similar to those for women generally, disabled women often experience different dimensions to physical, psychological, and sexual violence – such as those that are derived from their sexuality, including for example, control of reproduction and menstruation. Disabled women who rely on either formal or informal personal care assistance may be subject to frequent violence and abuse.<sup>10</sup>

The lack of inclusive services and programs for disabled women experiencing or at risk of experiencing violence is well documented.<sup>11</sup> There are limited support options for those who do escape violence. Where services 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 disabled women particularly problematic:

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<sup>7</sup> WWDA (2008) *'We're women too!'* - Response to the Australian Government's Consultation on the National Plan to Reduce Violence against Women and Children. WWDA, Tasmania. Available online at: <http://www.wwda.org.au/subs2006.htm>

<sup>8</sup> Women With Disabilities Australia (WWDA) (2009) *Submission to Inform the Development of the Framework for the National Women's Health Policy*. WWDA, Tasmania, Australia.

<sup>9</sup> Dowse, L., Frohmader, C. & Meekosha, H. Intersectionality: Disabled Women. In Eastaugh, P. (ed) *Women and the Law* (forthcoming).

<sup>10</sup> Women With Disabilities Australia (WWDA) (2009) *Submission to the National Human Rights Consultation*. WWDA, Tasmania. Available online at: <http://www.wwda.org.au/subs2006.htm>

<sup>11</sup> Women With Disabilities Australia (WWDA) (2007b) *'Forgotten Sisters - A global review of violence against women with disabilities'*. WWDA Resource Manual on Violence Against Women With Disabilities. Published by Women With Disabilities Australia (WWDA), Tasmania, Australia.

- whilst violence is a significant presence in the lives of large numbers of disabled women, many do not recognise it as a crime, are unaware of the services and options available to them and/or lack the confidence to seek help and support.
- experience in community support services suggests that accessible information and communication is very limited in terms of both content and format of information available.
- 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.
- the unlikelihood of being referred to a refuge because it is assumed that such agencies do not or are unable to cater for their needs.

## 4. Family Violence: A Common Interpretive Framework?

Chapter Four of the Consultation Paper explores various conceptualisations of family violence and considers whether it is appropriate or desirable to aim for a common interpretative framework for what constitutes family violence across the different legislative schemes under consideration.<sup>12</sup>

### 4.1. Definition of family violence or acts constituting family violence

The way in which violence against women is defined and conceptualised is a critical issue, as it determines, for example:

- research agendas, findings and official data and statistics;
- individual and community perception;
- legal and social responses.

The importance of legislation in combating violence against women has been well documented. The law provides the institutional framework for defining and responding to violence against women - it sets the boundaries of what is deemed acceptable and unacceptable; it has the potential to provide clear definitions of the various forms of violence and those actions that are defined as criminal; and it sends out a strong message that violence against women is a public issue not a private concern. Legislation is also one of the most important routes whereby protection, redress, and justice are

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<sup>12</sup> Commonwealth of Australia (2010) *Family Violence - Improving Legal Frameworks: Consultation Paper*. Australian Law Reform Commission Consultation Paper 1; NSW Law Reform Commission Consultation Paper 9. ALRC, Sydney.

created.<sup>13 14</sup> This is critical for disabled women, who experience forms of violence that are not traditionally included in existing legislation. Both general provisions and specific laws also frequently fail to take into account the context in which violence occurs, a major factor for disabled women experiencing violence.<sup>15</sup> For example, in Australia, legislation, policy and services that focus on the broader issue of violence against women, has demonstrated a lack of awareness about the complexity of issues facing disabled women.

As the Consultation Paper demonstrates, in Australia, the legal definition of domestic/family violence varies across jurisdictions because of differences in legislation. Some Australian States and Territories have legislation which deals with domestic situations and non-domestic situations in separate pieces of legislation; others have continued to include domestic violence within the Criminal Code and other Acts.<sup>16</sup> Most of the legislation defines what constitutes a 'domestic relationship' and some of these definitions are more inclusive than others. Despite the many and varied definitions within the various Australian laws of what constitutes domestic violence, family violence, domestic relationships, significant persons, relevant persons and so on, most of the current laws do not contain definitions which specifically encompass the range of domestic/family settings in which women with disabilities may live (such as group or nursing homes), nor do they contain definitions which capture and encompass the various forms of violence as experienced by women with disabilities. Because these experiences may not fit either traditional or contemporary definitions, violence against women with disabilities often goes unidentified or unaddressed.<sup>17 18</sup>

## **WWDA is therefore of the view that:**

- State and territory family violence legislation, along with the Family Law Act 1975 (Cth) should contain the same, comprehensive definition of family violence which includes the broadest possible definition of acts of family violence and relationships within which family violence occurs. The definition of family violence should be broad enough to cover:
  - physical and non-physical/psychological violence;
  - sexual assault;
  - sexual violence, including forced sterilisation and forced contraception;
  - economic abuse;
  - kidnapping or deprivation of liberty;

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<sup>13</sup> Goldfarb, S. (2005) Combating Violence Against Women in the Legal Domain. Paper prepared for the 'Violence Against Women: Good practices in combating and eliminating violence against women' Expert Group Meeting. Organised by the UN Division for the Advancement of Women in collaboration with the UN Office on Drugs and Crime. Vienna, Austria.

<sup>14</sup> Council of Europe (1997) *Final Report of Activities of the EG-S-VI including a Plan of Action for combating violence against women*. Group of Specialists for Combating Violence Against Women (EG-S-VI).

<sup>15</sup> Women With Disabilities Australia (WWDA) (2007b) Op Cit.

<sup>16</sup> Women With Disabilities Australia (WWDA) (2007b) Op Cit.

<sup>17</sup> Ibid.

<sup>18</sup> Frohmader, C. & Meekosha, H. (2010) *Recognition, respect and rights: disabled women in a globalised world*. Paper presented to the 2010 Regional Conference on Women with Disabilities, Guangzhou, China.



- damage to property and threats to commit such damage;
  - harm or injury to an animal;
  - exposure of children to family violence;
  - harmful practices
- A standard, comprehensive definition of family violence should acknowledge that violence against women is a form of discrimination, a violation of women's human rights, and that women's experience of violence is shaped by a range of factors, including for example, disability.
- State and territory family violence legislation, along with the Family Law Act 1975 (Cth) should include specific examples of emotional and/or psychological abuse and/or intimidation and/or harassment and/or acts of omission (including neglect) that illustrate, capture and encompass the various forms of violence against certain vulnerable groups, including women with disabilities. The legislation should make it clear that such examples are illustrative and not exhaustive of the prohibited conduct.
  - State and territory governments should ensure that the standard definition of family violence in their family violence legislation aligns with corresponding concepts or definitions in their criminal laws.

## 4.2. Persons protected

Currently, in each jurisdiction, in order for a person to obtain a protection order under family violence legislation that person needs to be in a defined relationship with the person engaging in violence.<sup>19</sup> The relationships covered by family violence legislation across the jurisdictions differ widely in some respects. For example, only three jurisdictions (NSW, NT & SA) expressly define carers within the relationships covered by their family violence legislation.<sup>20</sup> Some cover only 'informal' care relationships, which are defined as those that apply to domestic support and personal care relationships provided without fee or reward. This means in practice, for example, that women with disabilities who live in group homes or other residential care facilities, would not be covered by a definition that was restricted to 'informal care' relationships.<sup>21</sup>

It has been well established that women with disabilities who rely on personal care assistance are likely to be subject to frequent violence and abuse, ranging from neglect, poor care and rough

<sup>19</sup> Commonwealth of Australia (2010) *Family Violence - Improving Legal Frameworks: Consultation Paper*. Australian Law Reform Commission Consultation Paper 1; NSW Law Reform Commission Consultation Paper 9. ALRC, Sydney.

<sup>20</sup> Ibid, p.203 – 205 (Table B).

<sup>21</sup> Dowse, L., Frohmader, C. & Meekosha, H. Intersectionality: Disabled Women. In Easta, P. (ed) *Women and the Law* (forthcoming).

treatment through to verbal, economic, physical and sexual abuse.<sup>22</sup> Women with disabilities are also at greater risk of abuse such as institutional abuse, chemical restraint, drug use, forced/coerced sterilisation, medical exploitation, humiliation and harassment.<sup>23</sup>

It is possible for disabled women who experience violence to take measures such as apprehended or personal violence orders. However, in practice, for women with intellectual impairments who live in group homes, for example, recognition of their specific support needs is limited. Access to effective protection is dependent on mediation and intervention by others such as staff or carers, who may also be the perpetrators of the violence or abuse.<sup>24</sup>

### **WWDA is therefore of the view that:**

- Relationships with carers and domestic workers - including those who are paid and/or unpaid, formal and/or informal, should be included in the relationships covered by State and Territory family violence legislation.
- State and territory family violence legislation should adopt the same grounds for obtaining a protection order.

### **4.3. Guiding Principles & A Human Rights Framework**

It is now widely accepted that violence against women is a form of discrimination and a violation of women's human rights. It prevents women 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.<sup>25 26</sup>

Australia is a party to a number of international human rights treaties and instruments that delineate the clear and specific responsibilities of governments to address violence against women, including women with disabilities. The Australian Government has a responsibility to fulfil obligations under the various international conventions it has ratified.<sup>27</sup>

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<sup>22</sup> See Women With Disabilities Australia (WWDA) (2007b) *'Forgotten Sisters - A global review of violence against women with disabilities'*. WWDA Resource Manual on Violence Against Women With Disabilities. Published by WWDA, Tasmania, Australia.

<sup>23</sup> WWDA (2008) *'We're women too!' - Response to the Australian Government's Consultation on the National Plan to Reduce Violence against Women and Children*. WWDA, Tasmania. Available online at: <http://www.wwda.org.au/subs2006.htm>

<sup>24</sup> Dowse, L., Frohmader, C. & Meekosha, H. Intersectionality: Disabled Women. In Easta, P. (ed) *Women and the Law* (forthcoming).

<sup>25</sup> United Nations Population Fund (UNFPA) (2005) *'State of World Population 2005: The Promise of Equality - Gender Equity, Reproductive Health and the Millennium Development Goals'*. UNFPA, New York, USA.

<sup>26</sup> United Nations Department of Economic and Social Affairs (2009) *Handbook for legislation on violence against women*. Division for the Advancement of Women, United Nations, New York.

<sup>27</sup> Women With Disabilities Australia (WWDA) (2007b) *'Forgotten Sisters - A global review of violence against women with disabilities'*. WWDA Resource Manual on Violence Against Women With Disabilities. Published by WWDA, Tasmania, Australia.

The obligation of Government to address violence against women is clearly articulated in the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW)<sup>28</sup>, and the specific responsibilities of Governments in this area are clarified further in CEDAW General Recommendation 19.<sup>29</sup> The *International Covenant on Economic, Social and Cultural Rights* (CESCR)<sup>30</sup>, stipulates that a state's failure to protect women against violence is a violation of its obligation to protect the right to health.<sup>31</sup> The requirement of states to protect children from all forms of violence is clearly spelled out in the *Convention on the Rights of the Child* (CRC).<sup>32</sup>

The responsibility of Governments to address violence against people with disabilities (particularly women and girls with disabilities) is explicitly delineated in the *Convention on the Rights of Persons with Disabilities* (CRPD)<sup>33</sup>, which acknowledges that '*women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation*'.<sup>34</sup> The CRPD, which entered into force in Australia in 2008, 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 Governments to take positive actions and measures to ensure that women and girls with disabilities enjoy all human rights and fundamental freedoms – including their right to freedom from violence.

A human-rights based approach to conceptualising and addressing violence against women with disabilities, recognises women with disabilities as 'rights holders' which implies that others are 'duty bearers'. Under a human rights framework, governments are the primary 'duty bearers'. Duties can include the establishment of equitable laws and systems that enable women with disabilities to exercise and enjoy their rights, and to seek judicial recourse for violations under the rule of law. As rights holders, women with disabilities can then claim their legitimate entitlements.<sup>35</sup>

The Australian Government has recently '*reaffirmed its commitment to promoting awareness and understanding of human rights in the Australian community and respecting the seven core United Nations human rights treaties to which Australia is a party*'.<sup>36</sup>

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<sup>28</sup> Ratified by the Australian Government in 1983.

<sup>29</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *CEDAW General Recommendations Nos. 19* [Violence against women] and 20, adopted at the Eleventh Session, 1992 (contained in Document A/47/38), 1992, A/47/38, available at: <http://www.unhcr.org/refworld/docid/453882a422.html> [accessed June 2009].

<sup>30</sup> Ratified by Australia in 1975.

<sup>31</sup> CESCR General Comment 14 at para.51.

<sup>32</sup> Ratified by Australia in 1990.

<sup>33</sup> Ratified by Australia in 2007.

<sup>34</sup> See CRPD Preamble at para [q]. See also CRPD Article 16: Freedom from exploitation, violence and abuse.

<sup>35</sup> Women With Disabilities Australia (WWDA) (2007b) Op Cit.

<sup>36</sup> Commonwealth of Australia (2010) *Australia's Human Rights Framework*. Attorney General's Department, Canberra. Accessed online May 2010 at: <http://www.ag.gov.au/humanrightsframework>

In this context, it is important that State and territory family violence legislation contain specific reference to the relevant human rights treaties to which Australia is a party, in order to indicate clearly that the laws should be interpreted in accordance with the letter and spirit of these treaties.<sup>37</sup>

### **WWDA is therefore of the view that:**

- State and territory family violence legislation should contain guiding principles, which should include express reference to a human rights framework. This should incorporate clear reference to relevant international treaties to which Australia is a party, including the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), the *Convention on the Rights of Persons with Disabilities* (CRPD), the *Convention on the Rights of the Child* (CRC), the *International Covenant on Economic, Social and Cultural Rights* (CESCR).
- State and territory family violence legislation should contain a provision that explains the nature, features and dynamics of family violence including: its gendered nature; detrimental impact on children; and the fact that it can involve exploitation of power imbalances; and occur in all sectors of society.
- Family violence legislation should refer to the particular impact of family violence on vulnerable and marginalised groups, including Indigenous persons; people with disabilities, those from a culturally and linguistically diverse background; those from the gay, lesbian, bisexual, transgender and intersex community; and older persons.

## **4.4. Integrated Responses and Best Practice**

Critical for the effective use of the law is women's knowledge of the law and the protection and remedies it offers, and women's capacity to claim these rights effectively. However, women with disabilities are one of the groups least well served by the justice system. It is widely acknowledged that violence against women with disabilities often goes unreported and even when it is reported, very few cases are prosecuted.<sup>38</sup> There continues to be an acute lack of awareness and understanding among professionals, including lawyers and decision-makers, about family violence and women with disabilities.<sup>39 40</sup>

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<sup>37</sup> United Nations Office of the High Commissioner for Human Rights (2007) *From Exclusion to Equality: Realizing the Rights of Persons With Disabilities*. Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol. United Nations, Geneva.

<sup>38</sup> Women With Disabilities Australia (WWDA) (2007b) Op Cit.

<sup>39</sup> Women's Health Victoria and Victorian Women with Disabilities Network (2008) *Building the Evidence: A report on the status of policy and practice in responding to violence against women with disabilities in Victoria*. Prepared by Lucy Healey, Keran Howe, Cathy Humphreys, Chris Jennings & Felicity Julian for the Victorian Women with Disabilities Network, Melbourne.

<sup>40</sup> Women With Disabilities Australia (WWDA) (2007b) Op Cit.

Despite considerable reform in the family violence justice response in recent years, women with disabilities still face negative community attitudes from the judiciary, lawyers and court officials and a failure to consider their safety (and that of their children) ahead of [Family Court] access matters.<sup>41</sup>

Just as in community support services there are a number of specific issues that have been identified in the literature and borne out by WWDA's experience that make access to justice for women with disabilities particularly problematic.<sup>42</sup> These include:

- lack of knowledge of the nature and forms of violence against women with disabilities,
- perceived lack of credibility of women with disabilities;
- poor reporting practices of care staff;
- absence of protocols for dealing with women with disabilities who make complaints;
- attitudes of police towards people with disabilities;
- lack of physical access to courts;
- rules of evidence which discriminate against people with disabilities giving evidence;
- courtroom procedures that unfairly impinge on the rights of people with disabilities;
- lack of knowledge about disability;
- systemic gender bias in the criminal justice system.

The combination of information, education and training is a key strategy in preventing violence against women and girls with disabilities. Information, education and training will assist these groups to protect themselves against all forms of violence, and seek effective recourse to justice. Fulfilling the promise of human rights for women with disabilities calls for transformations in the underlying value systems that legitimise violence and discrimination. Human rights education, information and training is therefore essential to sensitise those responsible for protecting the human rights of women with disabilities.<sup>43</sup>

The importance of research and data collection in the efforts to eliminate violence against women is clearly articulated in a number of international human rights instruments such as the United Nations *Declaration on the Elimination of Violence Against Women*.<sup>44</sup> However, a serious obstacle to progressing the elimination of violence against women is the inadequate and uneven data on various forms of violence against women and on how they affect different groups of women, including women with disabilities. There is an urgent need to strengthen the knowledge base on all forms of violence against women to inform policy and strategy development.<sup>45</sup>

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<sup>41</sup> Women's Health Victoria and Victorian Women with Disabilities Network (2008) Op Cit.

<sup>42</sup> Women With Disabilities Australia (WWDA) (2007b) Op Cit.

<sup>43</sup> Women With Disabilities Australia (WWDA) (2007b) Op Cit.

<sup>44</sup> Potts, H. (2009) *Participation and the Right to the Highest Attainable Standard of Health*. University of Essex, Human Rights Centre.

<sup>45</sup> Walby, S. (2007) *Indicators to measure violence against women*. Invited paper for the Expert Group Meeting on indicators to measure violence against women. Co-organised by the United Nations Division for the Advancement of Women, UN Economic Commission for Europe, and the United Nations Statistics Division. Geneva.

The lack of research and data collection on violence against women with disabilities is a consistent theme throughout the published literature on the issue.<sup>46</sup> In the Australian context, the most immediate and apparent finding in researching and analysing violence against women with disabilities is the limited information available on any aspect of the issue.<sup>47</sup> 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)*(2006).<sup>48</sup>

## **WWDA is therefore of the view that:**

- State and territory governments should establish and further develop integrated responses to family violence in their respective jurisdictions, building on best practice. The Australian Government should also foster the development of integrated responses at a national level. These integrated responses should include the following elements:
  - (a) common policies and objectives;
  - (b) provision for specially tailored measures for vulnerable and marginalised groups, including women with disabilities;
  - (c) mechanisms for inter-agency collaboration, including those to ensure information sharing;
  - (d) provision for legal and non-legal victim support, and a key role for victim support organisations;
  - (e) inclusive and accessible training and education programs; and,
  - (f) provision for disaggregated data collection and evaluation.
- Australian universities offering law degrees should review their curriculums to ensure that disability and human rights specific curriculum components are mandatory. Such curriculums should also include legal issues concerning family violence as it relates to women with disabilities.
- The Australian Government should ensure that disability inclusive court support services for victims of family violence are available nationally in federal family courts.
- State and territory governments should ensure that victim support workers and lawyers are available at family violence-related court proceedings, and that these workers are skilled to work with women with disabilities and other vulnerable and marginalised groups.

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<sup>46</sup> Women With Disabilities Australia (WWDA) (2007b) Op Cit.

<sup>47</sup> Ibid.

<sup>48</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), *UN Committee on the Elimination of Discrimination against Women: Concluding Comments, Australia*, 3 February 2006, CEDAW/C/AUL/CO/5, available at: <http://www.unhcr.org/refworld/docid/441183430.html> [accessed May 2009].

- Australian law societies and institutes should review continuing professional development requirements to ensure that legal issues concerning women with disabilities and family violence are appropriately addressed.
- The Australian Government should conduct a national audit of family violence training conducted by government and non-governmental agencies, in order to:
  - (a) evaluate whether such training meets best practice principles; and
  - (b) promote the development of best practice in training.
- Such an audit should also assess and promote inclusive and accessible training and education programs, including the need for all family violence training to include a focus on the impact of family violence on vulnerable and marginalised groups, including women with disabilities.
- The Australian Government and State and territory governments should ensure the quality of Family Violence training by developing a national Family Violence Education and Professional Development Framework which emphasises the diversity of experiences and needs of victims/survivors.<sup>49</sup>
- The Australian Government should develop, in consultation with key stakeholders, a Model Bench Book on Family Violence which incorporates specific material on violence against women with disabilities.

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<sup>49</sup> National Council to Reduce Violence against Women and their Children (2009) *Time for Action: The National Council's Plan for Australia to Reduce Violence against Women and their Children, 2009–2021*.