



**Australian  
Human Rights  
Commission**

## **Rights, Roadblocks, Resilience**

Older Women's Network NSW  
Forum

Hon. Susan Ryan AO

Age Discrimination Commissioner

Australian Human Rights Commission

16 August 2012, 10.00am

Theatrette, NSW Parliament House

## *Traditional owners – Gadigal People of the Eora Nation*

### **RIGHTS**

I congratulate OWN on several things:

- your great work of advocacy in support older women;
- the scope and timeliness of this conference;
- and your 3 themes for today: Rights, Roadblocks and Resilience

They are all big concepts for older women, and so directly to the point that I have chosen to speak to each of them in my address to you today.

Let's start with **Rights**.

We talk a lot about rights in our community, but sometimes without clear definitions of what we mean.

At the Australian Human Rights Commission, our slogan is human rights - for everyone, everywhere, every day.

In my particular role as Age Discrimination Commissioner, I am charged with advancing the rights of all to live free of age discrimination.

This means for the most part advocating and protecting the rights of older people.

Human rights cover virtually every area of human activity.

They include civil and political rights, such as freedom of speech and freedom from torture. They include economic and social rights, such as the rights to health and education. Some rights apply to individuals, such as the right to a fair trial, others to groups of people, such as the right to a healthy environment.

The issue of human rights and ageing is now very much on the global agenda, as well as here on our national agenda.

The issue demands attention at all levels from government, business and the community.

We all know that improved health and more effective birth control have led to an ageing world population.

We do hear a lot about this ageing society but too often we hear about it in only negative terms, such as the alleged huge burden being created for the public purse.

We must stop focusing just on the negatives and start to recognise the potential of older people.

Increasingly, the ways in which we choose to integrate older people into our society and our economy will be the measure of how well we will progress as nations in future.

Looking at our own region, the Asia Pacific, there are some impressive facts on ageing.

- The number of people aged 60 years and over reached 438 million in 2010. That number is estimated to double in 15 years and to reach above 1.2 billion by 2050.
- Sixty per cent of the world's older population lives in the Asia Pacific region and by 2050 one in four people will be over the age of 60 years.<sup>1</sup>

These are seismic shifts in our regional demography, and the picture is reflected in Australia.

And while the experience of ageing has some similarities for men and women, there are particular experiences for women. During the International Year of Older Persons the Former UN Secretary General Kofi Annan said,

“Women comprise the majority of older persons in all but a few countries... [but]... they are more likely than men to be poor in old age, and more likely to face discrimination.”

We understand how this picture of female disadvantage has come about.

Women live longer than men and have more years to fund after they leave paid work. However due to greater caring responsibilities for older parents and children, lower wages, lower levels of financial literacy and less superannuation or savings due to child rearing; women generally have lower retirement savings than men. This is the case in both developed and developing countries.

It is the case here in Australia.

Wherever we live, women's rights to work, and to an income when we stop working are essential if we are to avoid poverty and insecurity.

Work is especially important as a protective factor against poverty.

But work not only provides financial security, it enhances the physical, mental and social capacity and capabilities of human beings.

**How are these rights protected internationally?**

It is important to note that the rights of older people are not recognised explicitly under the international human rights laws.

We do not have a specific treaty to protect the rights of older people.

There is however some movement towards this reform.

In fact, I am heading to New York this weekend to attend a working group at the UN that is discussing the possibility of a new convention on the rights of older people.

The development of a convention will take a long time. If achieved it would no doubt add significantly to the protection of older people's rights throughout the world.

In the meantime, we can use the international treaties that are available to us, noting that these treaties have been interpreted to support the rights of older people.

The *Universal Declaration of Human Rights* sets down in Article 1 that "All human beings are born free and equal in dignity and rights."<sup>2</sup>

This right to freedom and equality does not change as we grow older. It applies to us throughout the life cycle, and equally to men and women.

Australia's ratification of the *International Covenant on Economic Social and Cultural Rights* (ICESCR) brings with it obligations to ensure that all citizens have rights to:

- social security;
- work; and
- technical and vocational guidance and training programmes.<sup>3</sup>

Australia has also indicated its support for the United Nations *Principles for Older Persons*. They include the right of the older person to independence, participation, care, self-fulfilment and dignity.

Compared with many nations of the world, in Australia we are in a relatively favourable position, because we have significant domestic protections against discrimination of older people.

These are principally; the *Age Discrimination Act* 2004, the protections flowing from those UN treaties covered by the *Australian Human Rights Commission Act* 1986, and the complaints process through the Australian Human Rights Commission.

Protections are also provided through state and territory equal opportunity commissions' complaints processes and through the *Fair Work Act* 2009.

The *Age Discrimination Act 2004* protects the rights of people of any age to be free of discrimination based on age. The complaints that come into the commission give us a good idea of where discrimination is occurring for older people.

69% of all age discrimination complaints at the Australian Human Rights Commission relate to employment, and over the last year the Commission has had a 44% increase in age-related complaints.

From my wider work I am aware that age discrimination goes wider than the workplace.

**Homelessness** is another terrible manifestation of age discrimination.

It is related to work discrimination. The difficult circumstances faced by older people who are homeless or living in poverty, have in many cases been exacerbated by age discrimination in the workforce at an earlier stage of their lives.

They were forced into unemployment too early and from this fell into poverty, often into mental illness, and then found themselves homeless.

From these pictures we can see that our rights to employment – to remain in the workforce as long as we are willing and able – are essential, as indeed are our rights to training at mature ages, to ensure we are equipped to continue working for as long as we need to.

What prevents all older people, especially older women from exercising these rights?

## **ROADBLOCKS**

Some big roadblocks stop us from working at certain ages; some of them through policies and laws, and some because of discriminatory attitudes.

I recently launched a paper entitled: *Working past our 60s: Reforming laws and policies for the older worker*. This paper looks at the barriers to workforce participation after the mid-60s – specifically government and industry age limits or age caps that reduce or withdraw the entitlements of older workers.

Did you know that in most jurisdictions, our entitlements to workers compensation are limited as we get older? While older workers are still covered for medical expenses, the income replacement part of worker's comp is cut off or limited, generally at age 65.

Why the age cut off? Is it more costly for insurance for the older worker? I am yet to see any data to justify the worker's comp age limits, any data indicating that older people are more prone to workplace accidents. In fact, some of the evidence suggests the contrary.

The ABS *Work Related Injuries* report found that people aged 65 years and over recorded the lowest rate of work-related injuries and illnesses of all age groups with 30 per 1,000 people.<sup>4</sup> The highest rates of work-related injury or illness were in the 45 to 49 year age group at 72 per 1,000 people.<sup>5</sup> On the basis of such evidence, it is hard to see the rationale to keep the age bar at 65.

Queensland and Western Australia don't have an age limit on worker's comp. Instead they have capped limits on the period or the amount that the schemes will pay. If two states can lift these age bars, why can't the others?

And there is no joy for older workers who want to protect themselves through income protection insurance. Along with worker's comp, income insurance cuts out in the early to mid-60s, with some exceptions where coverage is provided to 70.

The trades industries tend to impose a younger cut-off point at 60 years.

There are some important activities now underway to address these roadblocks.

A project of Safe Work Australia will encourage the states and territories to harmonise aspects of the worker's compensation legislation.

I certainly hope the no age bar policy of WA becomes the national standard.

The Australian Law Reform Commission's inquiry into Commonwealth laws that discriminate on the basis of age is making good progress. I have been appointed a part-time Commissioner to this Inquiry.

And I am continuing my advocacy on these issues with business and government.

I am happy to report that this advocacy is meeting with a positive response.

### **Discriminatory attitudes**

The other big roadblock is widespread discriminatory attitudes towards older workers – these attitudes can be a major barrier to employment.

According to 2010 ABS data, one in five older Australians aged 55 years or older, who were actively looking for more hours claimed that their age was a major preventative factor, explaining that they were considered 'too old' by employers.<sup>6</sup>

The ABS reports that for unemployed people aged 45 years and over, the main difficulty in finding work (accounting for 18% of cases) was reported as being 'considered too old by employers'.<sup>7</sup>

The *Consultative Forum on Mature Age Participation* found that private recruitment agencies are increasingly playing a role as intermediaries between jobseekers and employers.<sup>8</sup>

In some instances, recruitment agencies are reluctant to put older workers forward to employers, especially if they have pressing targets. In other instances, the employer may specify a preference for younger recruits.

Evidence of these practices is not well-documented, but they are reflected in the complaints received by the Australian Human Rights Commission.

## **Stereotyping**

We are working hard to address these discriminatory attitudes – which are based on outmoded stereotypes.

The Treasurer's Advisory Panel on the Economic Potential of Senior acknowledged that discrimination and stereotyping of older people was a significant barrier to senior Australians realizing their potential.

The Treasurer has responded to the panel's report with a number of initiatives, one of them to fund a project that I am leading over the next four years - to address **media images** that perpetuate age discrimination, age stereotyping and ageism, and to conduct research to feed into a media roundtable and communication strategy.

I have just commenced this work.

## **Financial**

Another substantial roadblock for the security of older women is financial.

Women in general do not have enough money to provide for a secure old age.

All the evidence shows that women's income lower than men's, as it has been forever, and the gap is not closing fast enough

Over the past 25 years there have been improvements. The proportion of women earning their own incomes has risen, and women's levels of economic autonomy have increased.<sup>9</sup>

But today, women still lag behind men in income, and this disparity continues throughout the life cycle.

At ages 65 and older, the mean income for men in full and part time work was \$1,024, and for women in work, \$669.<sup>10</sup>

Despite earning less over a lifetime than men, and therefore having lower super savings, women have been shown to be less financially literate than men and less likely to plan their finances.

In a recent study on financial behaviour, the Australian Securities and Investments Commission (ASIC) found that women are harder to engage on issues of financial literacy.<sup>11</sup>

Women are less likely to be reliant on super in retirement. In 2007, just over 7 percent of women compared with 15 percent of men, reported that their main source of retirement income was superannuation or annuity.<sup>12</sup>

It is sobering to consider that in 2011, ABS stats show around 60 percent of women aged 65-69 have no super.

This is another significant roadblock for women. But we can tackle this one too.

ASIC is planning a *MoneySmart week*<sup>13</sup> which will promote financial literacy for all, but will also have some programs and internet-based resources for the *Over 55s*. Look out for this during September 2-8. There will be all sorts of activities and promotions in local libraries and post offices.

And there is your own valuable contribution.

The **NSW Older Women's Network** has produced some excellent simple, accessible brochures warning women about financial abuse. Again this is a problem experienced more by older women than men.

Inspired by OWN's publications I have started a new initiative on financial literacy that will build on your good work.

I am planning to have a financial literacy publication completed sometime later this year. The aim is to help older people, **especially older women**, to understand and manage their finances better, and to resist financial bullying, scams and fraud.

## **RESILIENCE**

There are some good things happening in the area of age – and one that we should all celebrate is our resilience.

We are living longer and healthier lives. The Australian Financial Review reported in February this year that many women born today are likely to live until 95.

Even those of here today who were born quite a few years ago are looking to living into our eighties. Compared with our great grandmothers, this is almost one whole extra lifetime to experience.

And we are healthier. Older Australians can expect to live more years without a core activity limitation.<sup>14</sup> At age 65, females can now expect to live another 21.8 years, including 16.1 years without a profound core activity limitation.<sup>15</sup>

And I recently commissioned research that shows that most people think old age begins around 70, but it is really the lack of mobility and frailty rather than a specific year that defines old age.

Respondents to the survey questions said: 'It is not how old one is - it is the ability to *do* things.'

The top three descriptions applied to older people are experienced, wise and vulnerable. Life experience is seen as a valuable commodity possessed by older people. Younger respondents to the research survey cited parents as trusted mentors and advisors. This view reflects primarily a positive frame of older Australians – wise and experienced - as well as a concern for their welfare in regard to vulnerability.

Interestingly, many respondents said that a 'retirement age' is no longer relevant.

And finally, respondents said that **longevity or a 'third age' is positive and it offers opportunity.**

They are on the right track.

We are living almost an extra lifetime longer than our great grandmothers did.

So this is our challenge: we must assert our rights and tear down those roadblocks.

We must achieve the full implementation of the human rights of older people.

If we do this, the unprecedented gift of the third age will see us contributing according to our true capacities, valued for who we are and what we do, safe and secure, and enjoying life, our own and those of our families, friends and communities.

I am sure this OWN conference will support those objectives.

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<sup>1</sup> International Federation on Ageing, *International Workshop Human Rights of Older Persons in Asia-Pacific Region Focus on Health and Well-Being*, Summary of Proceedings and Outcome Statement, 4-6 June 2012, p. 6.

<sup>2</sup> *Universal Declaration of Human Rights*, GA Resolution 217A(III), UN Doc A/810 (1948), art 1. At: <http://www.un.org/en/documents/udhr/#atop> (viewed 17 May 2012).

<sup>3</sup> *International Covenant on Economic, Social and Cultural Rights*, 1966, art 6(1)(2) and art 9.

<sup>4</sup> Australian Bureau of Statistics, *6324.0 - Work-Related Injuries, Australia, 2009-10, 2010*. At [http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6324.0Main\\_per\\_cent20Features32009-10?opendocument&tabname=Summary&prodno=6324.0&issue=2009-10&num=&view=](http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6324.0Main_per_cent20Features32009-10?opendocument&tabname=Summary&prodno=6324.0&issue=2009-10&num=&view=) (viewed 1 November 2010).

<sup>5</sup> Australian Bureau of Statistics, *Work-related injury or illness down, men still at most risk, 6324.0 - Work-Related Injuries, Australia, 2009-10*. (Media Release, 13 December 2010). At [http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6324.0Media\\_per\\_cent20Release12009-10?opendocument&tabname=Summary&prodno=6324.0&issue=2009-10&num=&view=](http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6324.0Media_per_cent20Release12009-10?opendocument&tabname=Summary&prodno=6324.0&issue=2009-10&num=&view=) (viewed 1 November 2011).

<sup>6</sup> Australian Bureau of Statistics, 'Older People and the Labour Market', *4102.0 – Australian Social Trends, Sep 2010* (September 2010), p 5. At

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<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features30Sep+2010> (viewed 3 August 2012).

<sup>7</sup> Australian Bureau of Statistics, 'Older People and the Labour Market', *4102.0 – Australian Social Trends, Sep 2010* (September 2010). At

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features30Sep+2010> (viewed 3 August 2012).

<sup>8</sup> National Seniors Productive Ageing Centre, *Ageing and the Barriers to Labour Force Participation in Australia*, prepared on behalf of the Consultative Forum on Mature Age Participation (2011), p 18. At

[https://docs.google.com/viewer?a=v&q=cache:FfjaNYL9K5wJ:www.deewr.gov.au/Employment/Programs/ExpPlus/Documents/AgeingandBarriersLFP.pdf+National+Seniors+Productive+Ageing+Centre,+Ageing+and+the+Barriers+to+Labour+Force+Participation+in+Australia+\(2011\),+prepared+for+Consultative+Forum+on+Mature+Age+Participation,+18.&hl=en&gl=au&pid=bl&srcid=ADGEEsif1gPyjIJ2FLL3qNx4Bp7ECGT693yWwgPB8p9KImMF6fbUiBt9Q76U9Z8vdD35S3Mn6InT9hCVBB0Q8j7gOEKe8WYLhcdeJf2gFFsGoAzC2XdXVndr01HshlrX3WHKLzJ8PR2&sig=AHIEtbTKgnTAXnlVuBvMpPM8dTDfOVs5jw](https://docs.google.com/viewer?a=v&q=cache:FfjaNYL9K5wJ:www.deewr.gov.au/Employment/Programs/ExpPlus/Documents/AgeingandBarriersLFP.pdf+National+Seniors+Productive+Ageing+Centre,+Ageing+and+the+Barriers+to+Labour+Force+Participation+in+Australia+(2011),+prepared+for+Consultative+Forum+on+Mature+Age+Participation,+18.&hl=en&gl=au&pid=bl&srcid=ADGEEsif1gPyjIJ2FLL3qNx4Bp7ECGT693yWwgPB8p9KImMF6fbUiBt9Q76U9Z8vdD35S3Mn6InT9hCVBB0Q8j7gOEKe8WYLhcdeJf2gFFsGoAzC2XdXVndr01HshlrX3WHKLzJ8PR2&sig=AHIEtbTKgnTAXnlVuBvMpPM8dTDfOVs5jw) (viewed 3 August 2012).

<sup>9</sup> ABS 4102.0, *Australian Social Trends 2008: Women's incomes*. At:

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4102.02008?OpenDocument> (Viewed 23 November 2011).

<sup>10</sup> ABS, *Summary of Findings, 6310.0 – Employee Earnings, benefits and Trade Union membership, Australia*, Aug 2010. At: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/6310.0Aug%202010?OpenDocument> (viewed 3 February 2012).

<sup>11</sup> Australian Securities and Investments Commission, *Financial literacy and behavioural change*, March 2011. At: <http://www.financialliteracy.gov.au/research> (viewed 15 December 2011).

<sup>12</sup> ABS, *Employment Arrangements, Retirement and Superannuation, Australia, 6361.0 • April to July 2007*. At: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features50March%202009> (Viewed 24 November 2011).

<sup>13</sup> ASIC 'Money Smart' <http://www.moneysmart.gov.au/>

<sup>14</sup> Australian Institute of Health and Welfare, *Australia's Health 2012*, Australia's health series no.13, p 84. At <http://www.aihw.gov.au/publication-detail/?id=10737422172> (viewed 27 June 2012).

<sup>15</sup> Australian Institute of Health and Welfare, *Australia's Health 2012*, Australia's health series no.13, p 83. At <http://www.aihw.gov.au/publication-detail/?id=10737422172> (viewed 27 June 2012).