

# Inquiry into the potential for a Human Rights Act for South Australia.

Full Stop Australia Submission  
February 2024



## About Full Stop Australia

Full Stop Australia thanks the Social Development Committee of South Australian Parliament for the opportunity to provide input on its inquiry into the potential for a Human Rights Act for South Australia (Inquiry).

Full Stop Australia is a nationally focused not-for-profit organisation which has been working in the field of sexual, domestic, and family violence since 1971. We perform the following functions:

- Provide expert and confidential telephone, online and face-to-face counselling to people of all genders who have experienced sexual, domestic, or family violence, and specialist help for their supporters and those experiencing vicarious trauma;
- Conduct best practice training and professional services to support frontline workers, government, the corporate and not-for-profit sector; and
- Advocate to governments and in the media, for laws and systems better equipped to respond to, and ultimately prevent, gender-based violence.

Our advocacy is guided by the lived expertise of over 600 survivor-advocates in our [National Survivor Advocate Program](#) (NSAP), which gives victim-survivors of gender-based violence a platform to share their experiences in order to drive positive change. The NSAP gives survivors a platform to share their experiences to drive positive change—by accessing opportunities to tell their stories in the media, weigh in on Full Stop Australia's submissions to Government, and engage directly with Government. We are committed to centring the voices of victim-survivors in our work, and advocating for laws and systems that genuinely meet their needs.

## About this submission

This submission was prepared by Emily Dale, Head of Advocacy and Taran Buckby, Legal & Policy Officer. If you have any questions in relation to this submission, please do not hesitate to contact Emily Dale at [emilyd@fullstop.org.au](mailto:emilyd@fullstop.org.au).

### Approach to this submission

While Full Stop Australia generally supports the introduction of human rights legislation in South Australia, this submission focuses primarily on the rights of victim-survivors of sexual, domestic and family violence. Given Full Stop Australia's organisational expertise, we thought focusing on these rights would add most value to the Inquiry.

In addition to the points raised in this submission, we also note that we've had the benefit of reviewing knowmore's submission to the Inquiry, and endorse the points therein.

### Terminology used in this submission

This submission uses the term *sexual violence* as a broad descriptor for any unwanted acts of a sexual nature perpetrated by one or more persons against another. This term is used to emphasise the violent nature of all sexual offences and is not limited to those offences that involve physical force and/or injury. Those who have experienced sexual violence are referenced as *victim-survivors*, *people with lived experience* or, in the case of their involvement with the NSAP, *survivor-advocates*.

We use the term *gender-based violence* to capture all forms of violence whose drivers are gendered, and which disproportionately affect women and children—including sexual, domestic and family violence, and child sexual abuse.

## Full Stop Australia supports South Australia adopting a Human Rights Act

Full Stop Australia strongly supports South Australia adopting legislation specifically aimed at the protection and promotion of human rights. As noted by the Charter of Rights Campaign Coalition chaired by the Human Rights Law Centre—to which Full Stop Australia is a signatory—this would benefit the whole community by:

- Giving every South Australia citizen recourse to challenge human rights violations;
- Fostering a culture of understanding and respecting human rights; and
- Requiring Governments to consider people’s human rights when creating and amending laws and policies, and delivering important services—including housing, social services, disability support services, and education.<sup>1</sup>

It would also mean creating a clearer, fairer and more accessible human rights framework. As noted by the Australian Human Rights Commission (AHRC), current human rights protections across Australia—including in South Australia—form an incomplete and piecemeal framework, with many gaps.<sup>2</sup> Delineating all human rights protections in a single piece of legislation would establish a single point of reference for people who wish to understand, and if necessary take action in relation to violations of, their human rights.<sup>3</sup> This comprehensive approach is favourable to the current position in South Australian law—whereby limited human rights protections are expressed in a piecemeal way. As well as delivering limited avenues for redress to people whose rights have been violated, this patchy framework isn’t accessible to ordinary people without legal expertise. This has the

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<sup>1</sup> Human Rights Law Centre, *Charter of Rights*, <<https://charterofrights.org.au/charter-of-rights>>.

<sup>2</sup> Australian Human Rights Commission, *Free and Equal: A Human Rights Act for Australia*, December 2022, p 46, <[humanrights.gov.au/sites/default/files/free\\_equal\\_hra\\_2022\\_-\\_main\\_report\\_rgb\\_0\\_0.pdf](https://www.humanrights.gov.au/sites/default/files/free_equal_hra_2022_-_main_report_rgb_0_0.pdf)>.

<sup>3</sup> Human Rights Law Centre, *Submission to the Parliamentary Joint Committee on Human Rights*, 14 July 2023, <[www.aph.gov.au/DocumentStore.ashx?id=43283cc8-5b98-4c83-bf95-0889af698f8a&subId=746372](https://www.aph.gov.au/DocumentStore.ashx?id=43283cc8-5b98-4c83-bf95-0889af698f8a&subId=746372)>.

most profound impacts on vulnerable people—particularly those who have experienced trauma, and other experiences that make navigating complex systems difficult.

Without listing every provision we think should be included in a South Australian human rights instrument, at a high level, we note our support for the following principle articulated by the Rights Resource Network SA:<sup>4</sup>

'A South Australian Human Rights Framework should include, as a starting point, those rights contained in the Universal Declaration of Human Rights and articulated in further detail in the seven core human rights Conventions to which Australia is a party.'<sup>5</sup>

We also support the principles listed in knowmore's submission to this Inquiry—that in order to be effective, a South Australian human rights instrument should include a 'direct path to a remedy for each right protected by a Human Rights Act'<sup>6</sup> and a 'statutory provision for periodic reviews of a Human Rights Act'<sup>7</sup>—to ensure human rights legislation is enforceable and remains in step with community values and expectations.

Finally, we note that Full Stop Australia would welcome the opportunity to provide feedback on draft human rights legislation for South Australia, when such a draft becomes available.

## **Human Rights legislation should specifically provide protection to victim-survivors of sexual, domestic and family violence**

The unique experiences and needs of victim-survivors of sexual, domestic and family violence must be considered in the legislation, with provisions specifically addressing those needs included. We have outlined below the protections we think should apply.

### **Right to live free from sexual, domestic and family violence**

South Australia should adopt human rights legislation that creates a standalone right to live free from gender-based violence.

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<sup>4</sup> Sarah Moulds and Matilda Wise, *Designing a Human Rights Framework for South Australia: Final Report*, February 2022, <[www.rightsnetworksa.com/\\_files/ugd/8cf77c\\_33045f4455014d5aa55dc22c40a39d92.pdf](http://www.rightsnetworksa.com/_files/ugd/8cf77c_33045f4455014d5aa55dc22c40a39d92.pdf)>.

<sup>5</sup> International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 ([1976] ATS 5); International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23); International Convention on the Elimination of all Forms of Racial Discrimination done at New York on 21 December 1965 ([1975] ATS 40); Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12); Convention on the Elimination of All Forms of Discrimination Against Women done at New York on 18 December 1979 ([1983] ATS 9); Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment done at New York on 10 December 1984 ([1989] ATS 21).

<sup>6</sup> Australian Human Rights Commission, above n 2, p 26; Sarah Moulds and Matilda Wise, above n 4, p 38.

<sup>7</sup> Australian Human Rights Commission, above n 2, p 30; Sarah Moulds and Matilda Wise, above n 4, p 38.

Numbers showing the prevalence of these forms of violence in Australia are disturbing:

- On average, one Australian woman is murdered every week by a current or former intimate partner.<sup>8</sup>
- According to the latest Australian Bureau of Statistics Personal Safety Survey, 1 in 5 Australian women has experienced sexual violence since the age of 15, and 1 in 4 Australian women has experienced violence from an intimate partner or family member since the age of 15.<sup>9</sup>
- The latest Australian Child Maltreatment Study, a survey of over 8,500 Australians, revealed that more than 1 in 3 girls, and almost 1 in 5 boys, experience Child Sexual Abuse.<sup>10</sup>

National data also demonstrates significant challenges accessing justice. According to the 2021-2022 Personal Safety Survey, of the 737,200 women who experienced sexual assault by a male perpetrator in the ten years prior to survey, 92% (680,300 women) did not report the most recent incident to police.<sup>11</sup> These figures clearly demonstrate that the entry point to the criminal justice system—reporting to police—is not working for victim-survivors of sexual violence. Unfortunately, too many victim-survivors report finding the process of engaging with police challenging and re-traumatising, due to lack of police understanding of how to work with victim-survivors of trauma and sexual violence.

As set out above, human rights with broader application have the potential to increase the protection available to victim-survivors of sexual, domestic and family violence. For example, the rights to housing and an adequate standard of living might support victim-survivors of domestic violence to continue living safely in their own homes or access assistance to find alternative safe accommodation.

In addition to general rights, we think the scale of the problem of sexual, domestic and family violence, and the extent to which existing laws and systems are failing to provide justice to victim-survivors, justifies creating a standalone right to live free from sexual, domestic and family violence. This would also highlight the critical importance of ending sexual, domestic and family violence as a key priority for South Australia.

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<sup>8</sup> Australian Institute of Criminology, *National Homicide Monitoring Program* (Cussen & Bryant, 2015).

<sup>9</sup> Australian Bureau of Statistics. (2021-22). *Personal Safety, Australia*. ABS.

<https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/latest-release>.

<sup>10</sup> Haslam D, Mathews B, Pacella R, Scott JG, Finkelhor D, Higgins DJ, Meinck F, Erskine HE, Thomas HJ, Lawrence D, Malacova E. (2023). *The prevalence and impact of child maltreatment in Australia: Findings from the Australian Child Maltreatment Study: Brief Report*. Australian Child Maltreatment Study, Queensland University of Technology.

<sup>11</sup> Australian Bureau of Statistics. (2021-22). *Sexual violence*. ABS.

<https://www.abs.gov.au/statistics/people/crime-and-justice/sexual-violence/2021-22>.

Setting out this separate right performs an educative and value-setting function for the community—by clarifying that violence is not only criminal, and socially sanctioned, but in fact, a human rights violation.

### **Protection of victim-survivors' rights in criminal proceedings**

Human rights legislation should specifically protect the rights of victim-survivors of sexual, domestic and family violence in criminal proceedings and the justice system more broadly.

Existing human rights instruments in other jurisdictions protect various rights of the accused in criminal proceedings—for example, the right to a fair trial, the right to legal assistance, the right to interpreter assistance, and the right for legal proceedings to be conducted without delay—without offering corresponding protections to victim-survivors.<sup>12</sup> The AHRC's proposed model for a Federal human rights instrument similarly focuses on the rights of people charged with criminal offences—in its equal access to justice duty—without considering victims' rights in the justice system.<sup>13</sup>

These models create an imbalance that disadvantages victim-survivors. To address this, several recent inquiries have recommended amendments to existing human rights instruments to address protection gaps for victim-survivors:

- The Queensland Government has expressed support for recommendations by the Women's Safety and Justice Taskforce, and Queensland Parliament's Legal Affairs and Safety Committee, to incorporate victims' rights into Queensland's Human Rights Act.<sup>14</sup>
- The Victorian Law Reform Commission has recommended that Victoria's Charter of Human Rights be amended to include specific minimum guarantees for victims—including the right to be acknowledged as a participant with an interest in criminal proceedings, the right to be treated with respect, and the right to be protected from unnecessary trauma, intimidation and distress when giving evidence.<sup>15</sup>

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<sup>12</sup> See, for example, *Human Rights Act 2019* (Qld) ss 31-32; *Charter of Human Rights and Responsibilities Act 2006* (Vic) ss 24-25; *Human Rights Act 2004* (ACT) ss 21-22.

<sup>13</sup> Australian Human Rights Commission, above n 2.

<sup>14</sup> Queensland Government, *Response to the report of the Queensland Women's Safety and Justice Taskforce, Hear Her Voice — Report two: Women and girls' experienced across the criminal justice system*, 21 November 2022, p 13, <[www.publications.qld.gov.au/dataset/wsjskforceresponse/resource/a0705c73-62bd-4263-ab2c-694e5735d058](http://www.publications.qld.gov.au/dataset/wsjskforceresponse/resource/a0705c73-62bd-4263-ab2c-694e5735d058)>; Queensland Government, *Inquiry into support provided to victims of crime: Queensland Government response*, 19 May 2023, accessed 4 February 2024, p 4, <[documents.parliament.qld.gov.au/com/LASC-C96E/202324BE-8296/Government%20Response%20to%20LASC%20Report%20No.%2048,%20Inquiry%20into%20support%20provided%20into%20victims%20of%20crime.pdf](http://documents.parliament.qld.gov.au/com/LASC-C96E/202324BE-8296/Government%20Response%20to%20LASC%20Report%20No.%2048,%20Inquiry%20into%20support%20provided%20into%20victims%20of%20crime.pdf)>.

<sup>15</sup> Victorian Law Reform Commission, *Victims in the criminal trial process: report*, 22 November 2016, chapter 3, <[www.lawreform.vic.gov.au/publication/the-role-of-victims-of-crime-in-the-criminal-trial-process-report-2/](http://www.lawreform.vic.gov.au/publication/the-role-of-victims-of-crime-in-the-criminal-trial-process-report-2/)>.

We recommend that a South Australian Human Rights Act should explicitly protect the following rights of victim-survivors:

- The right to be treated with respect and dignity.
- The right to be protected from unnecessary trauma, intimidation and distress when giving evidence.
- The right to be acknowledged as a participant with an interest in legal proceedings—including the right to be informed about and consulted on decisions that impact them.
- The right to standing to appear in legal proceedings, either themselves or through a legal representative, in relation to aspects of the criminal process that impact them.
- The right to legal assistance, to understand their rights and the criminal justice process—including the right to free legal assistance where required.
- The right to access gender-based, violence and trauma informed, and culturally safe support services while navigating the justice system.
- The right to access translation and other communication support services, such as witness intermediaries, where required.
- The right to have proceedings that impact them completed without delay.

We have commented further on some of these rights below.

In relation to protection from unnecessary trauma when giving evidence, 2021 research by Professors Luke McNamara and Julia Quilter shows that, even in jurisdictions that have introduced affirmative consent laws, cross-examination is often still conducted in a way that's unnecessarily retraumatizing, distressing and humiliating to complainants. According to McNamara and Quilter's research, cross-examination that runs contrary to affirmative consent legislation remains common—with defence counsel questioning why victim-survivors 'didn't just say no,' and casting doubt on victim-survivors' credibility over imperfect recall of (often trivial) events.<sup>16</sup> In this context, we consider a standalone right, protecting victim-survivors' ability to give important evidence in a way that's safe and trauma-informed, to be important both in setting standards, and to give victims recourse when impacted by inappropriate questioning.

In relation to victim-survivors' interest, and right to standing, in legal proceedings, we note that many victim-survivors report feeling disempowered by their lack of voice and agency in the justice system. There isn't a reliable mechanism for receiving victim-survivors' input on matters that directly impact them—for example, applications for bail, a decision to drop charges, applications to access victim-survivors' confidential counselling records, or

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<sup>16</sup> Dr Luke McNamara and Dr Julia Quilter, *Submission to the Senate Legal and Constitutional Affairs References Committee Inquiry on Current and proposed sexual consent laws in Australia*, 2023, (Submission 17).



applications to tender evidence in relation to victim-survivors' past sexual activities. Gaps in relation to these matters include:

- The bail process doesn't adequately centre victims' needs, safety concerns or desire for input on matters impacting them. Under South Australian law, 'primary consideration [must be given by the authority determining bail applications] to the need that the victim may have, or perceive, for physical protection from the applicant.'<sup>17</sup> However, victims don't have an automatic right to be informed of bail outcomes. South Australian legislation merely suggests that the prosecution should make 'reasonable efforts' to notify victim-survivors of the outcome of bail proceedings, and only where the prosecution has been 'made aware that the victim feels a need for protection.'<sup>18</sup> These requirements are not enforceable.<sup>19</sup> Victims are also not engaged in the decision-making process about whether to grant bail—the best they can hope for is to be informed of decisions after the fact.
- The *Victims of Crime Act 2001* (SA) articulates various instances in which victims of crime should be provided with information—including when the prosecution decides to accept a plea to a lesser charge, or drop charges, or if an offender's release into the community is imminent.<sup>20</sup> These provisions don't provide victims with adequate agency in the criminal process—as they are unenforceable,<sup>21</sup> and only suggest victims should be provided with relevant information 'on request.'<sup>22</sup>
- There is no requirement under South Australian law for victims to be made aware of applications by the defence to ask questions or admit evidence of the victim's past sexual history, and victims do not have standing to challenge such applications.<sup>23</sup>
- Similarly, victims are not required to be made aware, and do not have standing to be heard, in relation to applications to admit evidence of their confidential counselling communications.<sup>24</sup>
- In general, there is no party specifically allocated to advocate for the interests of victims, on matters that affect them, in sexual violence proceedings or criminal proceedings involving domestic and family violence. Meanwhile, the accused has defence counsel, and the prosecution's interests may not align with a victim-survivor's.

We support Women's Legal Service NSW's suggestion to the Parliamentary Joint Committee on Human Rights Inquiry into Australia's Human Rights Framework that human rights legislation would go some way towards addressing these gaps:

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<sup>17</sup> *Bail Act 1985* (SA), s 10(4).

<sup>18</sup> *Victims of Crime Act 2001* (SA), s 7.

<sup>19</sup> *Ibid*, s 5(3).

<sup>20</sup> *Ibid*, ss 8(1)(e) and 8(2)(d).

<sup>21</sup> *Ibid*, s 5(3).

<sup>22</sup> *Ibid*, s 8.

<sup>23</sup> Attorney-General's Department SA, *Review of sexual consent laws in South Australia: Discussion paper*, December 2023, pp 33-34, <<https://yoursay.sa.gov.au/90581/widgets/423777/documents/275336>>.

<sup>24</sup> *Ibid*.



*'A duty of equal access for victim-survivors should also include allowing the participation of victim survivors in the criminal legal process where decisions are being made that directly impact them, for instance bail decisions. This can occur through legal representatives or through the direct participation of the victim-survivor. Consulting with and listening to the concerns and wishes of victim-survivors in the legal process acknowledges that they have expertise in the issues that impact them, including the safety of their children and themselves.'*<sup>25</sup>

We also support human rights legislation recognising victim-survivors' right to legal assistance to navigate the justice system. This would complement the above rights of participation, consultation and standing in legal proceedings. A 2023 survey of victim-survivors in Full Stop's NSAP showed that struggles accessing legal support negatively impacted victim-survivors' experience of the justice system.<sup>26</sup> 84% of survey respondents reported they were unable to access legal services, with many reporting barriers such as cost, limited services in rural areas, long wait lists, discrimination in service provision, and the lack of a clear pathway to legal services. As a result, many reported feeling like they didn't understand the justice system, being retraumatised and alone, and experiencing a general lack of control over outcomes. Survey respondents said they would have found legal support useful to better understand the justice system, and advocate for their interests within that system, where possible. Respondents noted the importance of legal support being trauma-informed, culturally safe and accessible—including being freely available to those who could not otherwise afford it. Establishing a right to legal assistance for victim-survivors of sexual, domestic and family violence—including a right to free legal support for those unable to pay for legal help—would make the justice system more responsive to that cohort's justice needs.

Finally, we recommend protecting the right to access gender-based violence and trauma informed and culturally safe supports while navigating the justice system. Providing for cultural safety is necessary to ensure the justice system is accessible by all. Currently, this is often not the case. For example, Women's Legal Service NSW noted in its submission to the 2023 Federal Parliamentary inquiry into Australia's Human Rights Framework that its clients have reported having 'a limited understanding of, and provision for cultural safety in [legal] processes, particularly in court-ordered processes.' Meanwhile, it's necessary to specifically provide for a right to trauma-informed and gender-based violence-informed supports—to address the prevalence of retraumatisation through justice system processes.

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<sup>25</sup> Women's Legal Service NSW, *Submission to the Parliamentary Joint Committee on Human Rights Inquiry into Australia's Human Rights Framework*, 2023, (Submission 97).

<sup>26</sup> For more information on survey results, see Full Stop Australia, *Submission to the Attorney-General's Department: Scoping the Development of Specialised and Trauma-Informed Legal Services for Victims and Survivors of Sexual Assault*, 12 May 2023, available at: <https://fullstop.org.au/uploads/main/AGD-Submission-FINAL.pdf>.

## Protection of victim-survivors' rights in civil proceedings

We think the above rights should apply not only in criminal proceedings, but also in the range of civil proceedings in which victim-survivors of sexual, domestic and family violence are commonly involved.

As noted in Women's Legal Service NSW's submission to the 2023 Federal Parliamentary inquiry into Australia's Human Rights Framework:

*'Women who have experienced gender-based violence in family law, immigration law, employment law, social security and other areas of civil law, (as well as in state/territory-based issues such as protection orders and tenancy) [experience] similar human rights implications [to those involved in criminal proceedings]... It is our experience that our clients and their children suffer when they do not have access to early and adequate legal assistance [in these areas]. We have clients who have felt forced by the police and judicial officers to agree to parenting plans with violent partners on the day of a final hearing for a protection order, and have been told those plans have the effect of parenting orders, without having access to family law [advice].'<sup>27</sup>*

Extending relevant rights to civil as well as criminal proceedings would increase victim-survivor agency and reduce retraumatisation.

## Right to access timely, accessible and victim-centric support

Full Stop Australia notes the following comments in knowmore's submission to this Inquiry, about the difficulties victims of crime currently face accessing support and compensation:

*'[There are] issues with the high standard of proof for a victim to receive compensation under the scheme—generally, the offence must be proved beyond reasonable doubt.<sup>28</sup> This is a higher standard of proof than in other states and territories,<sup>29</sup> and makes it difficult for a victim in South Australia to receive compensation if the offender has not been convicted. In our experience, the high standard of proof is one of the most significant barriers to victims and survivors exercising their right to compensation under South Australia's victims of crime compensation scheme.'*

knowmore's submission also identifies existing protection gaps preventing South Australian victims of crime from asserting their rights:

*'While South Australia has a declaration of principles for the treatment of victims of crime,<sup>30</sup> this declaration does not adequately protect the human rights of victims and survivors in*

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<sup>27</sup> Women's Legal Service NSW, above n 25.

<sup>28</sup> Law Council of Australia, *Submission to the Royal Commission's issues paper 7: victims of crime compensation schemes*, 4 July 2014, pp 22–23, <[lawcouncil.au/resources/submissions/victims-of-crime-compensation-schemes--issues-paper-7](http://lawcouncil.au/resources/submissions/victims-of-crime-compensation-schemes--issues-paper-7)>.

<sup>29</sup> *Ibid*, p 22, paragraph 80.

<sup>30</sup> *Victims of Crime Act 2001* (SA), Part 2.

*South Australia. In particular, the declaration is unenforceable in criminal and civil proceedings.*<sup>31</sup>

According to victim-survivors in the NSAP, victims' experience of Government systems—including the justice system, Courts, health, mental health and social services—is too often marred by:

- Delays;
- Referral 'roundabouts';
- Lack of victim-centric and trauma-informed processes; and
- Poor understanding of reasons why victims might disengage from services—including, as aptly noted in knowmore's submission to this Inquiry, 'the impacts of child sexual abuse on victims and survivors, including distrust of institutions and other impacts that can make it difficult for victims and survivors to access services.'<sup>32</sup>

Specific protection, in a human rights instrument, of the right of victims of crime to access timely, accessible and victim-centric support is an important step towards addressing these gaps. The Queensland Human Rights Commission has acknowledged the importance of specifically protecting victims' rights in human rights legislation:

*'It has been noted that promoting rights for victims is an attempt to address the persistent difficulties experienced by institutions and professionals to adequately meet the expectations of victims of crime. Having violence inflicted on them and experienced victimisation separates victims from their usual place in society. It disrupts the sense of trust and belonging people generally (though variably) have in others.'*<sup>33</sup>

This would play two important roles—first, it would raise awareness and influence values in the broader community regarding victims' rights and experiences, and second, it would support victims to assert their rights when engaging with Government systems.

### **Right of victim-survivors of sexual violence to live free from discrimination**

South Australian human rights legislation should protect all victim-survivors of sexual, domestic and family violence from discrimination.

Currently, the *Equal Opportunity Act 1984* includes 'being, or having been, subjected to domestic abuse' as a ground for protection from discrimination. The definition of 'domestic abuse' in South Australian law is broad—capturing not only intimate partners, but also parents and children, siblings, other blood or marriage relations, and relationships under

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<sup>31</sup> Ibid, s 5(3).

<sup>32</sup> Royal Commission, *Final report: volume 3, impacts*, pp 187–188.

<sup>33</sup> Queensland Human Rights Commission, *Submission to the inquiry into Australia's human rights framework*, 3 July 2023, p 51, paragraph 265, <[www.aph.gov.au/DocumentStore.ashx?id=b3699ab7-9b83-4b0f-b47b-a45ba35794da&subId=745481](http://www.aph.gov.au/DocumentStore.ashx?id=b3699ab7-9b83-4b0f-b47b-a45ba35794da&subId=745481)>.

Aboriginal and Torres Strait Islander kinship rules.<sup>34</sup> This offers important protection from discrimination to victim-survivors of domestic and family violence.

Expanding protection from discrimination, to also include victim-survivors of sexual violence, would strengthen the human rights protections available under South Australian law. The broad-reaching impacts of sexual violence in public life, and the scale of the issue in our society, justifies explicitly protecting all victim-survivors of this form of violence from discrimination.

Sexual violence can have far-reaching impacts on victim-survivors, impacting their participation in various areas of public life. For example:

- Victim-survivors of sexual violence may need to be absent from work, school or university in connection with ongoing legal proceedings.
- Many victim-survivors experience long-term, complex trauma following experiences of sexual violence. This can make it more challenging for them to perform their usual role or complete their studies. It may also require them to take absences from work, school or university to attend counselling meetings to manage the effects of trauma.

Victim-survivors risk facing discrimination in public life due to ongoing challenges associated with sexual violence. For example, a victim-survivor's employer might decide to terminate their employment in connection with absences from work taken to attend police interviews, legal proceedings, counselling or health appointments.

Ensuring victim-survivors are protected from discrimination, and able to participate fully in public life, is critical for breaking the cycle of violence and trauma. Discrimination can compound challenges victim-survivors face during recovery, making it more difficult for them to build independence and financial security. In addition to being devastating on an individual level, this has whole-of-society social and economic costs. As noted by the AHRC, these costs 'are exacerbated when victims and survivors are subjected to discrimination (for example where their employment is terminated and costs are incurred in recruiting and training a new employee).'<sup>35</sup>

Specifically protecting victim-survivors of sexual violence from discrimination would also do the important work of raising awareness and shaping values in relation to gender-based violence. It would recognise that discriminatory attitudes towards victim-survivors can exacerbate harm and trauma victim-survivors have already experienced.

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<sup>34</sup> *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s 8(8).

<sup>35</sup> Australian Human Rights Commission. (2014). *Fact sheet: Domestic and family violence – a workplace issue, a discrimination issue*. <https://humanrights.gov.au/our-work/sex-discrimination/publications/fact-sheet-domestic-and-family-violence-workplace-issue>.