



'The Answer is Human Rights', AHRC Sydney seminar

Parramatta Town Hall, 17 June 2026

Transcript

Panel members

- AHRC Chief Executive Leanne Smith
- AHRC Disability Discrimination Commissioner Rosemary Kayess
- Acting CEO Aboriginal Legal Service Sharif Deen

AUDIENCE MEMBER: I have had many conversations — hundreds of conversations — with women and children, victims of [inaudible] violence and sexual abuse. It's unthinkable that their recovery can take place without the assurance of male-free spaces. So my question to the panel is this: in Perth, the AHRC said that the conflict between women's sex-based rights and gender identity is a "narrow area of intersection", and that women need to apply for exemptions to protect female spaces. The Federal Court said your exemption guidelines are deficient. So why do you expect women — why put the onus on women — to navigate a complex and deficient process? And when will you publish updated practical advice that fixes the commission's guidelines?

ROSEMARY KAYESS: I hear what you're saying about the need for safe spaces for people. But we, the commission has got guidelines. And you can look to the commission's guidelines and for reference. Leanne, would you like to expand on ...?

LEANNE SMITH: Yes — I mean, thank you for bringing up the conversation. I think you're talking about a similar conversation to the one we're having now that the one we had in Perth.

AUDIENCE MEMBER: I'm talking about why would women are expected to apply for exemptions, like the Lesbian Action Group? You know, the Lesbian Action Group's asked for a right to have lesbian-only gatherings. They applied and they were refused. So why would you not propose a legal fix to that when you have the powers to?

LEANNE SMITH: So, our job at the Human Rights Commission is to stand up for the human rights of everybody in this country. And it's also to apply the legislation we have. The Sex Discrimination Act provides for the protection of women, and that includes transwomen. That's what the legislation says.

AUDIENCE MEMBER: But, any man, anyone can identify as a woman.

LEANNE SMITH: No, that's not, that's not ... [inaudible]

AUDIENCE MEMBER: How does that not ... [inaudible]

LEANNE SMITH: That's a misleading framing that ... if you'd like us to answer the question, you've asked the question and I'm trying respectfully to acknowledge the question you've asked and to provide the answer that I can. We're applying the Sex Discrimination Act as it stands. That's the law, and that law is built under international human rights law, including CEDAW that provides for those protections, including for transwomen. Our Commission is not suggesting that the safety and human rights of women and girls across Australia are not important. We're saying that the rights of transwomen and girls are also important. We know this is the pointy end. That safe spaces are the pointy end of this discussion, but in our view, if we sit around, sit together and look for positive, constructive solutions that are inclusive and respect everybody's human rights, we will find a way through.

AUDIENCE MEMBER: Can I just ask you one thing? Why did women fight for their rights? Why did working class women fight for generations to get their rights in law? Why did they?

SHARIF DEEN: Well, I was just going to offer a different perspective in terms of either, like I hear what you're saying, in terms of...

AUDIENCE MEMBER: ...but 97% of sexual violent crime is still committed by men.

LEANNE SMITH: You've had your question. You've had your question. Please respect everyone else in the space.

SHARIF DEEN: Rather than pre-empting what I was going to say, out of respect for us and everyone else in the room, please at least give us the grace to answer the question. I understand what you're saying because as the husband of a woman, the son of a woman, the brother of a woman, and the father of daughters, the rights that we would otherwise expect are inalienable and once upon a time, the idea that women have women-only spaces, or lesbian-only spaces, once upon a time, the idea that people who were in a minority of our community needing a safe space where they can congregate and talk together and have the safety, whether it's cultural safety, sexual safety, whatever it is, once upon a time, that was seen as something that was just a given.

In terms of your question about why should women be expected to apply for exemptions — they shouldn't. The reality is that the parameters or the construct within which we're working at the moment, that is, that's the situation, and the point that you raise is valid around the fact that they can apply for an exemption and it be rejected or not be approved. It's a case of needing to change the legislation, the regulation, or whatever it is.

And out of respect to you, I don't think that the people on the panel or the organisations that you're addressing the question to are necessarily the ones with the power to do that. If they're the ones that are responsible for advocating for what their remit is, then if they weren't advocating for it that would be an issue. But sitting here in my space, and in this seat and understanding what you're saying, I don't think that the question is actually best directed at them. I think it's actually better directed at government, ministers, the people who have the power to change the legislation, the regulations, and those sorts of things.

If the question is, do we, do I agree, as a panellist with the fact that women shouldn't have to apply for an exemption? Absolutely. Absolutely. Any day of the week. I know from my experience that I wouldn't be directing that question at the Human Rights Commission or the Anti-Discrimination Commission, because it's not necessarily within their power to do that.

LEANNE SMITH: Thank you, Sharif. Would anyone else on the panel like to add to that?

ROSEMARY KAYESS: [inaudible] ... I handballed it back to you. I mean, I think what we need to realise is that there is the right to apply for an exemption, so there is a consideration, there is a consideration to the nuance of the situation to ensure that all rights are respected. That women have their chance to argue their position on whether there is an exemption. But also transwomen are also able, given that respect, to be able to put their claim to be able to be part of those spaces. The fact that we recognise transwomen, and the fact that we recognise the rights of lesbians should be respected and celebrated, that both of those minority groups have a history of having their rights, their rights denied and not respected. Yet here we are with a situation where both those groups can have their rights respected and considered should be celebrated, not debated. We should be very thankful that we're in that position.