2014 CEDAW Shadow Report

A non-government perspective on Australia’s implementation of the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)

September 2014
Prepared by YWCA Australia and endorsed by 114 Australian non-government organisations across Australia
Acknowledgements

Our profound thanks to the following people who contributed to the development of the 2014 CEDAW Shadow Report

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Finally, thanks to all those who participated in face-to-face consultations, webinars and completed the online priorities survey.

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This report was prepared in 2014 and reflects information accurate at that time. It is anticipated that the Australian Government’s CEDAW Report will be submitted in 2016 and these reports are being released to coincide with this submission.
Our approach

Expert Knowledge
The development of the 2014 CEDAW Shadow Report was guided by an advisory group of professionals with extensive experience in CEDAW and social policy issues affecting women in Australia. A full list of advisory group members can be found at the back of this report.

Collective Advocacy
The 2014 CEDAW Shadow Report reflects the collective voice of x non-government organisations around Australia. A full list of endorsements can be found at the back of this report.

Broad Consultation
In writing the 2014 CEDAW Shadow Report, we consulted widely with diverse groups of women across Australia. This included four face-to-face consultations, a webinar for rural women and an online priorities survey, which received 124 responses.

Building Capacity
By building a training component into the face-to-face consultations, we used the development of the 2014 Shadow Report as an opportunity to build the capacity of the Australian women’s sector in the use of CEDAW for domestic advocacy.

Local to Global
The 2014 CEDAW Shadow Report presents 30 of the most critical issues facing women in Australia today. These issues are subject to current domestic advocacy campaigns and have been previously raised with the Australian Government. This approach creates a direct connection between domestic and global advocacy platforms.

Inequality Intersects!
Inequality doesn’t always fit neatly into different sub-headings, so at the end of each section you’ll find a quick guide to show you the other areas of the report that are relevant to that key issue and the sub-groups of women that are most likely to be negatively impacted by it.

Spotlights
The 2014 CEDAW Shadow Report contains four ‘spotlights’ on specific groups of women in Australia who continue to face critical and pervasive human rights abuses. These spotlights were informed by face-to-face consultations with these women and those who support them.

Indigenous Self-Determination
The 2014 CEDAW Shadow Report includes an Aboriginal and Torres Strait Islander Parallel Report, which specifically addresses human rights issues facing Aboriginal and Torres Strait Islander women. In keeping with previous years, this report was written by, and in consultation with, Aboriginal and Torres Strait Islander women.

Timeline
Since the last CEDAW Shadow Report (2010), Australia has experienced a change of government, which has resulted in a number of significant policy changes affecting women.

This report has been produced with funding from the Australian Government Office for Women however the views expressed in this publication do not necessarily reflect the views of the Australian Government.
## Contents

**Articles 1–3: Overall approach to gender equality**

- **Key Issue 1:** Limitations of the Sex Discrimination Act in effectively preventing and responding to gender discrimination  
  - x
- **Key Issue 2:** Failure to adopt a National Human Rights Act and adequately resource alternative mechanisms to protect human rights  
  - x

**Article 4: Temporary special measures**

- **Key Issue 3:** Reduced funding and political support for specialist women’s services  
  - x
- **Key Issue 4:** Proposed amendments to gender reporting requirements in Australian workplaces  
  - x

**Article 5: Sex roles and gender stereotypes**

- **Key Issue 5:** The impact of the media’s portrayal of women on negative body image  
  - x
- **Key Issue 6:** The need to mainstream gender equality into the national curriculum  
  - x

**Spotlight on single mothers and their children**  
  - x

**Article 6: Trafficking and exploitation of women**

- **Key Issue 7:** Improving the legal response and support services available to trafficked women  
  - x
- **Key Issue 8:** Adopting a human rights based approach to sex work  
  - x

**Article 7: Public participation**

- **Key Issue 9:** The participation of women in public leadership and decision-making  
  - x
- **Key Issue 10:** The capacity of non-government organisations to engage in advocacy work  
  - x

**Article 8: International participation**

- **Key Issue 11:** The reduced profile of the Australian Aid Program  
  - x
- **Key Issue 12:** The alignment of the Australian Aid Program to trade interests (‘aid for trade’) and its impact on women  
  - x

**Spotlight on women in prison**  
  - x

**Article 9: Right to a nationality**

- **Key Issue 13:** The appalling treatment of asylum seeking women and children in offshore detention centres  
  - x
- **Key Issue 14:** Insufficient access to support services by women on temporary visas who are experiencing violence  
  - x

**Article 10: Education**

- **Key Issue 15:** Reduced funding and support for technical and further education (TAFEs)  
  - x
- **Key Issue 16:** Changes to higher education funding  
  - x
Article 11: Employment

Key Issue 17: The cost and quality of childcare and its impact on women’s workforce participation x
Key Issue 18: The gender wage and superannuation gap x

Spotlight on women with disabilities x

Article 12: Healthcare

Key Issue 19: The Government’s proposal to seek Medicare co-payments x
Key Issue 20: Accessibility, affordability and availability of physical and mental health services in rural areas x

Article 13: Economic, social and cultural rights

Key Issue 21: Shortage of affordable housing for single older women x
Key Issue 22: Changes to income support payments and its impact on single mothers x

Article 14: Rural women

Key Issue 23: The critical role of women in disaster preparedness and response x
Key Issue 24: Rural women’s access to information and communication technologies (ICTs) x

Spotlight on immigrant and refugee women x

Article 15: Equality before the law

Key Issue 25: Insufficient protection for vulnerable witnesses in family law cases x
Key Issue 26: Gender bias in the provision of legal aid and its impact on women x

Article 16: Marriage and family relationships

Key Issue 27: Lack of political support for marriage equality (same sex marriage) x
Key Issue 28: The impact of early and forced marriage of women and girls x

Violence against women

Key Issue 29: Implementation of the National Plan to Reduce Violence Against Women and their Children x
Key Issue 30: The Australian legal system’s response to domestic and family violence x

Acknowledgements x
Summary of recommendations

We recommend that the Australian Government:

**Articles 1–3: Overall approach to gender inequality**

1. Implement the proposed Human Rights and Anti-Discrimination Bill and the remaining recommendations of the 2008 Senate Review into the effectiveness of the Sex Discrimination Act, in particular:
   - Consolidate Australia’s anti-discrimination legislation into a single Act that simplifies, modernises and strengthens protections against gender based discrimination, including promoting substantive equality and providing effective remedies against systemic and intersectional discrimination;
   - Remove permanent exemptions that allow groups such as sporting clubs and religious bodies to discriminate against women;
   - Provide expanded powers to the Sex Discrimination Commissioner, including the ability to investigate and respond to instances of sex discrimination without an individual complaint; and
   - Include domestic violence as a ‘protected attribute’ in all areas of public life in anti-discrimination legislation.

2. Fully incorporate its international human rights obligations into domestic law (with the aim of eventual Constitutional entrenchment) by introducing a comprehensive, judicially enforceable Human Rights Act.


4. Provide sufficient funding to the Australian Human Rights Commission for the appointment of all seven of its Commissioners.

**Article 4: Temporary special measures**

5. Acknowledge the value and importance of specialist women’s services and ensure that there is no net loss to women’s specific services when re-commissioning non-government services.

6. Acknowledge the importance of accurate, comprehensive and gender disaggregated data in closing the gender pay gap and prevent any further streamlining or simplification of gender reporting requirements in Australian workplaces.

7. Extend the new Minimum Standard requiring businesses with more than 500 staff to put in place one or more strategies to support and improve gender equality in the workplace, to businesses with more than 100 staff.

**Article 5: Sex roles and gender stereotypes**

8. Provide ongoing funding for evidence based body image and self-esteem programs for girls and boys in Australian schools, including (but not limited to) those that have been endorsed by the National Eating Disorders Collaboration.

9. Examine the feasibility of new legislation that requires the media to disclose digitally altered images in advertising, including engaging the broader community in a public consultation process.

10. In consultation with civil society groups and with the advice of qualified gender specialists, ensures that gender equality is mainstreamed into the entire national curriculum, including early childhood, primary and secondary education.

11. Renew and expand funding for respectful relationships education projects that apply an evidence based and gendered analysis to the issue of sexual assault and domestic and family violence, with a focus on building on promising approaches.
Article 6: Trafficking and exploitation of women

12. Implement the recommendations of UN Special Rapporteur on Trafficking in Persons 2011 Report, including:
   • Establish a national comprehensive compensation scheme for victims of trafficking;
   • Delink support for trafficked people from the criminal justice process;
   • Improve the existing visa scheme that provides visas to trafficked people by extending the initial visa to any person identified or provisionally identified as trafficked to allow a stay of at least 90 days for reflection and recovery; and
   • Develop specialist services for any child identified as being trafficked.

13. Develop a whole-of-government strategy to ensure that Commonwealth procurement policies ensure slavery-free supply chains in the provision of goods and services, including convening the Supply Chains Working Group of the National Roundtable.

14. Establish a wide-ranging review into the effectiveness of the victim support program, including visa support, entitlement to education services, financial support and the status of effective remedies.

15. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).


17. Provide adequate funding and resources for community led sex worker organisations to deliver peer based advocacy and programs that support sex workers to claim their human rights.

18. Work collaboratively with State and Territory counterparts to encourage a consistent legislative and policy approach to the decriminalisation of sex work in Australia using a gender sensitive human rights framework.

Article 7: Public participation

19. Embed targets for women’s participation on boards and committees within governance standards (tied to funding) for all publically funded bodies, including government owned corporations, superannuation trusts, health funds and research and development organisations.

20. Support the development of a reliable evidence base on the status of under-represented groups of women in leadership and decision making (including Aboriginal and Torres Strait Islander women, women with disabilities, women from culturally and linguistically diverse backgrounds, LGBTIQ women and women in rural and remote areas) to inform effective programs and policies.

21. Continue to provide funding and resources for long-term, evidence based programs to develop the leadership potential of women, with a specific focus on under-represented groups of women.

22. Recognise the importance of, and provide adequate funding for, legal assistance service providers to undertake law reform and advocacy work.

Article 8: International participation

23. Review its decision to cap aid funding and re-commit to the target of providing at least 0.5% of Gross National Income as foreign aid.

24. Implement a gender budget mechanism (in addition to the performance benchmark on gender) to ensure that the increased focus on gender equality in the aid program is matched with adequate funding.

25. Reinstate the ISSS at a cost of $1.2 million per annum.

26. Further investigate and measure the relationship between private sector development, economic growth and poverty alleviation, including implementing measures to ensure that sections of the population that are less likely to participate in the formal economy or access the benefits of economic growth benefit equally from the Australian aid program.

27. Develop a National Action Plan on the implementation of the UN Guiding Principles on Business and Human Rights to ensure a consistent, whole-of-Government approach to Australia’s duty to protect people from corporate human rights violations.
Article 9: Right to a nationality
28. Process women and families seeking asylum onshore in the Australian community, ensuring they have access to Medicare, community support services and the right to work and study until their claims for asylum are assessed.

29. Ensure that pregnant women are never held in offshore detention and are not separated from their partners or other children in order to come onshore to give birth. Further ensure that women receive appropriate services in connection with their pregnancy, including adequate nutrition during pregnancy, access to medical care and a safe, healthy and private place to breastfeed.

30. Commit to resettling all women and girls who have sought asylum in Australia and are found to be refugees, in Australia (not in a third country) and ensure that they have access to family reunion visa pathways so they can reunite with children and partners who did not make the journey to Australia with them.

31. Implement the remaining recommendations of the 2012 Australian Law Reform Commission (ALRC) Report, including the Family Violence Provisions to cover the partners (married or not) of 457 visa holders.

Article 10: Education
32. That the Australian Government implement the recommendations of the 2014 Senate Inquiry into technical and further education (TAFE) in Australia, including working collaboratively with State and Territory counterparts to ensure that the Council of Australian Government’s (COAG) reforms do not result in further losses of funding for TAFEs.

33. Undertake a gendered analysis of its proposed changes to higher education funding and implement measures to ensure that women are not disproportionately impacted.

Article 11: Employment
34. Implement a single, means tested childcare payment that provides the most support to low-income families, while ensuring that vulnerable families and children (including families in crisis) do not experience reduced access and financial support for childcare.

35. Retain the National Quality Framework for Early Childhood Education in its current form (ensuring no changes to qualification standards and child to carer ratios) and extend it to all government funded early childhood education services;

36. Increase the range of childcare options eligible for government funding, including flexible in-home care provided by qualified staff complying with the standards of the NQF.

37. Implement a fair system to regulate the use of ‘bonds’ by childcare providers.

38. Continue to ensure that the Workplace Gender Equality Agency (WGEA) receives adequate funding, resources and powers to perform its role in promoting, monitoring and improving gender equality in Australian workplaces.

39. Continue to ensure that Fair Work Australia receives adequate funding, resources and powers to eliminate the gender pay gap by addressing pay equality issues for women, especially those employed in highly feminised and male dominated professions.

Article 12: Healthcare
40. Work with industry stakeholders, including the AMA, to explore an alternative model of Medicare co-payments that includes better protections for vulnerable members of the community.

41. Provide adequate funding and resources for initiatives that increase rural women’s access to affordable physical and mental healthcare.
Article 13: Economic, social and cultural rights

42. Work with the Australian Bureau of Statistics (ABS) to develop a gender sensitive methodology for measuring homelessness in Australia, which accurately reflects older women’s unique experiences of housing stress.

43. In light of the de-funding of the National Rental Affordability Scheme (NRAS), implement a rental affordability program to increase the supply of affordable housing by attracting private investment to the affordable rental market. Within such a scheme, the provision of housing that meets the needs of older women should be a priority.

44. Ensure that new social housing and affordable housing stock meets the needs of single older women, for example, by offering incentives for the construction of accessible, single bedroom dwellings that allow supportive clusters of older people to live independently in close proximity to each other.

45. Amend the Social Security Act 1991 (Cth) to:
   • Ensure that single parents do not transition from Parenting Payment Single (PPS) to Newstart until their youngest child turns 14 (instead of 8); and
   • Freeze taper rates for single parents being transitioned from PPS to Newstart so that they able to maintain the same level of earnings before their payment is reduced.

46. Respond to the October 2012 letter by the UN Special Rapporteur on Extreme Poverty and Human Rights regarding the Social Security Legislation Amendment (Fair Incentives to Work) Act 2012 (Cth).

47. Initiate a broader reform of Australia’s family payment system, with a focus on alleviating child poverty and supporting sole parents.

Article 14: Rural women

48. Build the knowledge base on the critical role of women in disasters by investing in further research into the gendered nature in disaster preparedness and response (including the relationship between domestic violence, sexual assault and disasters).

49. Work collaboratively with State and Territory counterparts to ensure that domestic violence is included as a priority issue in all aspects of disaster management planning. Strategies must include, but are not limited to: the involvement of domestic violence services in disaster planning activities, the collection of accurate domestic violence statistics immediately following a disaster, providing compulsory domestic violence training to first responders and ensuring that community organisations are adequately resourced to rapidly respond to the known increase in domestic violence in the wake of natural disasters.

50. Work collaboratively with State and Territory counterparts to implement strategies to increase the number of women staff and volunteers working in emergency services (e.g. State Emergency Service, Urban and Rural Fire Brigades), with a focus on increasing the number of women in leadership and decision making positions.

51. Continue to provide funding and resources to innovative projects that use ICTs to increase social, education and economic opportunities for rural women, such as the National Rural Women’s Network (NRWN) A Cuppa With™ Webinar and e-Networking Series, which provides rural women with access to education and networking opportunities.
Article 15: Equality before the law

52. Amend the Family Law Act 1975 (Cth) to provide protection to victims/survivors of domestic and/or family violence from being directly cross-examined by an alleged perpetrator of violence, such as by allowing the court to appoint a suitable person to ask questions on behalf of the alleged perpetrator.

53. Develop through consultation with anti-family violence specialists, an eligibility criteria set for grants of legal aid in family law where the applicant is a victim of family violence, including clear criteria for the funding of specialist family violence reports to support decision-making by courts around issues of violence.

54. That State and Territory Governments, where they have not already done so introduce legislative protections to prevent vulnerable witnesses from being directly cross-examined by an alleged perpetrator of violence in domestic and family violence protection order matters.

55. Prioritise research into the prevalence of early and forced marriage in Australia to inform best practice strategies to prevent and address the issue in high risk communities.

56. Work collaboratively with State and Territory counterparts to coordinate Federal, State and Territory government responses to early and forced marriage.

57. Continue to provide funding for community based organisations to raise community awareness, develop materials and undertake community engagement on the issue of early and forced marriage.

58. Provide training to front-line government employees (including immigration and child protection workers), law enforcement officers and community organisations working in the family violence, health and education sectors to identify and respond to early and forced marriage.

Article 16: Marriage and family relationships

59. The Australian Government commit to working with State and Territory governments towards a nationally consistent approach to relationship recognition that includes same-sex couples.

60. Prioritise research into the prevalence of early and forced marriage in Australia to inform best practice strategies to prevent and address the issue in high-risk communities.

61. Work collaboratively with State and Territory counterparts to coordinate Federal, State and Territory government responses to early and forced marriage.

62. Continue to provide funding for community-based organisations to raise community awareness, develop materials and undertake community engagement on the issue of early and forced marriage.

63. Provide training to front-line government employees (including immigration and child protection workers), law enforcement officers and community organisations working in the family violence, health and education sectors to identify and respond to early and forced marriage.

Violence against women

64. Address the need for improved communication between government and civil society about the National Plan to Reduce Violence Against Women and their Children 2010–2022 and additional mechanisms for participation, engagement and advice from civil society to fill the gap left by the dissolution of the National Plan Implementation Panel (NPPIP) and the failure to establish Advisory Groups.

65. Ensure there is an independent mechanism to operationalise the Evaluation Plan, which will monitor and evaluate the implementation of the National Plan and adequate funding of civil society to engage in this process.

66. Proactively build the capacity of specialist women’s services as demand for services rises, including for their response, early intervention and prevention work, not only through resourcing but also by supporting meaningful structures to enable coordination across jurisdictions (this builds on recommendation 3.4 on page x).
67. Proactively build the capacity of civil society organisations to deliver gender equality and violence prevention education to children and young people.


69. Work collaboratively with its State and Territory counterparts to implement the outstanding recommendations made by the Australian Law Reform Commission and New South Wales (NSW) Law Reform Commissions in the 2010 and 2012 Family Violence Reports.

70. We further recommend that all State and Territory Governments urgently adopt statutorily established and securely funded specialist domestic and family violence death review unit; or ensure that current units are statutorily based, securely funded and comply with best practice principles, including mandating agency responses to and public monitoring of implementation of review recommendations.
Endorsements

Endorsed in whole or in part by 114 organisations:

Australia Women Against Violence Alliance
Economic Security For Women
Equality Rights Alliance
National Rural Women’s Coalition
Association of Women Educators
Australasian Council of Women and Policing
Australian Women Educators
Coalition of Women’s Domestic Violence Services of South Australia
Domestic Violence NSW
Domestic Violence Victoria
National Association of Services Against Sexual Violence
National Association of Services Against Sexual Violence Australian Capital Territory
National Association of Services Against Sexual Violence Northern Territory
Network of Immigrant and Refugee Women Australia
Queensland Domestic Violence Refuge Sector
Women With Disabilities Australia
Women’s Council For Domestic & Family Violence Services WA
Women’s Essential Service Providers Tasmania
Women’s Legal Services Australia
Australian Federation of Graduate Women
JERA International
National Council of Single Mothers and their Children
National Foundation for Australian Women
Older Women’s Network of Australia
Women in Adult and Vocational Education
Zonta International Districts 24

Aboriginal Legal Rights Movement
Australasian Council of Women and Policing
Australian Baha’i Community - Office of Equality
Australian Centre for Leadership for Women
Australian Council for International Development Gender Equity Working Group
Australian Federation of Graduate Women
Australian Federation of Medical Women
Australian Motherhood Initiative for Research and Community Involvement
Australian National Committee for UN Women
Australian Women’s Health Network
Australian Women’s Legal Services Australia
Australian Women’s Health Network
Australian Womensport and Recreation
Children by Choice
COTA Australia
Enlighten Education
FECCA Women’s Committee
Fitted for Work
Girl Guides Australia
Homebirth Australia
Human Rights Law Centre
Immigrant Women’s Speakout Association NSW
International Women’s Development Agency
JERA International
Jessie Street National Women’s Library
Maternity Choices Australia
Migrant Women’s Lobby Group of South Australia
Multicultural Women’s Advocacy ACT
National Association of Services Against Sexual Violence
National Council of Churches of Australia Gender Commission
National Council of Jewish Women of Australia
National Council of Single Mothers and Their Children
National Council of Women of Australia
National Foundation for Australian Women
National Union of Students (Women’s Department)
Older Women’s Network of Australia
Project Respect
Public Health Association of Australia (Women’s Special Interest Group)
Public Interest Law Clearing House (VIC) Inc
Sexual Health and Family Planning Australia
Sisters Inside
Soroptimist International
Union of Australian Women
United Nations Association of Australia Status of Women Network
Victorian Immigrant and Refugee Women’s Coalition
VIEW Clubs of Australia
Women in Adult and Vocational Education
Women in Engineering Australia
Women on Boards
Women with Disabilities Australia
Women’s Electoral Lobby
Women’s Environment Network Australia
Women’s Equity Think Tank
Women’s Housing Ltd
Women’s Information Referral Exchange
Women’s International League for Peace and Freedom
Women’s Legal Services Australia
Women’s Property Initiatives
Working Against Sexual Harassment
YWCA Australia
Zonta International Districts 22, 23 and 24
Australian Local Government Women’s Association (ALGWA)
Australian Women in Agriculture (AWiA)
Country Women’s Association of Australia (CWAA)
Indigenous Rural Woman Representatives
National Rural Health Alliance (NRHA)
Women’s Industry Network - Seafood Community (WIN-SC)
Advocacy for Inclusion
Armadale Domestic Violence Intervention
CASE for Refugees
Community Legal Education and Restorative Justice Officer
Council on the Ageing
District 23 Zonta International
Domestic Violence Resource Centre Victoria
Federation of Ethnic Communities’ Councils of Australia
Kingsford Legal Centre
People with Disabilities Australia
Ruby Gaea Darwin Centre Against Rape Inc
Scarlet Alliance Australian Sex Workers
The Coalition of Activist Lesbians
The Domestic Violence Resource Centre Victoria
The National Association of Community Legal Centres
The Wagga Women’s Health Centre
The Zonta Club of Adelaide
Women’s Health Special Interest group of the Public Health Association of Australia
Women’s Electoral Lobby Australia
Womens Health Victoria
Women’s Legal Services NSW
Women’s Services Network
Key Issue 1: Limitations of the Sex Discrimination Act in effectively preventing and responding to gender discrimination

Background:

1.1 The Australian Human Rights Commission’s Sex Discrimination Commissioner has undertaken significant work since Australia’s last Review to embed the elimination of gender inequality in Australian laws and policies, including:

- Leading the Australian Human Rights Commission’s Review into the Treatment of Women in the Australian Defence Force Academy and the Australian Defence Force.¹
- Undertaking a National Review into discrimination related to pregnancy, parental leave and return to work after parental leave,² which revealed that despite longstanding prohibitions against pregnancy/return to work discrimination, such discrimination is pervasive.³
- Elevating the issue of women’s representation in leadership on the national business agenda by bringing together some of Australia’s most influential and diverse male Chief Executive Officers (CEOs) and Chairpersons to form the Male Champions of Change group.

1.2 Despite numerous and sustained calls for reform, Australia’s Sex Discrimination Act 1984 (Cth) provides inadequate protection against gender discrimination for women in Australia. Specific deficiencies include:

- It is reactive and requires victims of discrimination (who are often vulnerable) to make a formal complaint through a complicated system;
- It fails to actively promote substantive equality or effectively address systemic discrimination against women;
- It does not provide a cohesive response to women who experience intersecting and compounding forms of discrimination (e.g. on the basis of gender and disability);
- It does not address all grounds of gender discrimination, such as discrimination on the grounds of domestic violence;
- It provides permanent exemptions to groups such as sporting clubs, religious bodies and charities; and
- It provides insufficient powers to the Sex Discrimination Commissioner to investigate and respond to instances of sex discrimination.

1.3 In December 2008, the Senate Legal and Constitutional Affairs Committee released a report on its review of the effectiveness of the Sex Discrimination Act, which made 43 recommendations for how the Act could better eliminate discrimination and promote gender equality in Australia. Central to the report was the recommendation that the Commonwealth Government conduct a public inquiry to examine the merits of replacing the existing federal anti-discrimination acts with a single Equality Act.⁴

2010/2012 CEDAW Committee Consideration:

1.4 In its 2010 concluding observations, the CEDAW Committee urged Australia to enact through legislation, the key recommendations of the 2008 Senate Report to ensure that the Sex Discrimination Act provides comprehensive protection against all forms of gender discrimination.

Articles 1–3
Overall approach to gender inequality

Articles 1–3 of CEDAW refer to Australia’s obligation to embed the elimination of gender discrimination and the advancement of women into its national laws and policies.
of discrimination against women. The Committee also strongly supported the consolidation and harmonisation of Australia’s federal anti-discrimination law into a single act.

Positive Developments:

1.5 In 2010, the Sex and Age Discrimination Legislation Amendment Act 2010 (Cth) was passed, which provides a number of increased protections from gender discrimination for both men and women, including: prohibiting direct discrimination against male and female employees on the ground of family responsibilities, strengthening protections against sexual harassment in workplaces and schools and establishing breastfeeding as a separate ground of discrimination.

1.6 In 2013, the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth) was passed, which provides new protections against discrimination on the basis of a person’s sexual orientation, gender identity and intersex status. This legislation also prevents religious bodies from discriminating against people on the basis of their sexuality in the provision of Commonwealth funded aged care. It is disappointing, however, that exemptions for religious bodies to discriminate in the provision of other social services remain.

Remaining Challenges:

1.7 In its 2010 response to the Senate Committee’s report, the Australian Government committed to examine the merits of consolidating Australia’s anti-discrimination laws as part of the National Human Rights Consultation process, which was occurring simultaneously (see page x). In September 2011 the Attorney General’s Department released a Discussion Paper on the issue and in 2012, released an exposure draft of the Human Rights and Anti-Discrimination Bill 2012 (Cth), which consolidated into a single piece of legislation, the five existing Commonwealth Acts that deal with human rights and discrimination. In early 2013, despite significant momentum towards a consolidated legislative framework to prevent and respond to gender discrimination in Australia, the Commonwealth Government announced that would not proceed with the Human Rights and Anti-Discrimination Bill.

Recommendations:
We recommend that the Australian Government:

1.8 Implement the proposed Human Rights and Anti-Discrimination Bill and the remaining recommendations of the 2008 Senate Review into the effectiveness of the Sex Discrimination Act, in particular:

- Consolidate Australia’s anti-discrimination legislation into a single Act that simplifies, modernises and strengthens protections against gender based discrimination, including promoting substantive equality and providing effective remedies against systemic and intersectional discrimination;
- Remove permanent exemptions that allow groups such as sporting clubs and religious bodies to discriminate against women;
- Provide expanded powers to the Sex Discrimination Commissioner, including the ability to investigate and respond to instances of sex discrimination without an individual complaint; and
- Include domestic violence as a ‘protected attribute’ in all areas of public life in anti-discrimination legislation.
Key Issue 2: Failure to adopt a National Human Rights Act and adequately resource alternative mechanisms to protect human rights

Background:
2.1 In 2008–2009 the Australian Government undertook a wide-reaching national consultation on how human rights could be better protected under Australian law. The consultation committee considered more than 35,000 written submissions and personal testimony from an additional 6000 people, making it the largest public inquiry in Australia’s history. At the conclusion of this consultation, despite the fact that 87% of written submissions supported it, the Australian Government decided not to pursue a National Human Rights Act and instead chose to implement a National Human Rights Framework. At the same time the Australian Government established the Parliamentary Joint Committee on Human Rights, with the mandate of scrutinising all federal legislation, and instruments for compatibility with human rights and to conduct inquiries into human rights on referral from the Attorney General.

2010/2012 CEDAW Committee Consideration:
2.2 In its 2010 concluding observations the CEDAW Committee noted with concern that the Australian Government decided to pursue a National Human Rights Framework instead of a National Human Rights Act. Despite this, the Committee urged Australia to provide adequate funding for the implementation of the Framework and to develop a National Action Plan to strengthen the promotion and protection of human rights. The Committee again urged Australia to give due consideration to the adoption of a National Human Rights Act encompassing a full range of civil, cultural, economic, political and social rights.

Positive Developments:
2.3 Since its establishment in 2012, this Parliamentary Joint Committee on Human Rights has made a commendable effort in elevating the consideration of Australia’s human rights obligations through scrutinising hundreds of pieces of legislation. Unfortunately, the fact that the Committee only has the power to make non-binding recommendations has rendered it unable to protect the human rights of Australians on a number of occasions (see remaining challenges).

Remaining Challenges:
2.4 There is significant concern among non-government stakeholders regarding the Australian Government’s ongoing response to the recommendations of the Parliamentary Joint Committee on Human Rights and individual communications by UN treaty bodies. For example:

- In 2012 the Australian Government adopted the Social Security Legislation Amendment (Fair Incentives to Work) Act 2012 (Cth), despite the expressed concern of the Committee that it was in breach of its international human rights obligations (see page xx for more information on this issue).
- A report by Remedy Australia found that of 33 individual communications sent by UN treaty bodies responsible for the International Convention on the Elimination of Racial Discrimination (ICERD), the International Convention on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT), only 16% had been fully remedied and 21% partially remedied.
2.5 Despite the introduction of the National Human Rights Framework, the Australian Human Rights Commission does not have sufficient funding to appoint all seven of its Commissioners. For example, a recent decision was made to appoint the position of Human Rights Commissioner (without any transparent process or public consultation) at the expense of replacing the outgoing Disability Discrimination Commissioner. The responsibilities for disability discrimination have now been added to the Age Discrimination Commissioner’s portfolio. This decision has left people with disabilities in Australia without a dedicated Commissioner to monitor and advocate for their human rights.

Recommendations:
We recommend that the Australian Government:

2.6 Fully incorporate its international human rights obligations into domestic law (with the aim of eventual Constitutional entrenchment) by introducing a comprehensive, judicially enforceable Human Rights Act.

2.7 Give greater consideration to the recommendations of the Parliamentary Joint Committee on Human Rights in the enactment of policy and legislation.

2.8 Provide sufficient funding to the Australian Human Rights Commission for the appointment of all seven of its Commissioners.

Inequality Intersects
Information in this part of the report is related to:

Key Issue 1: Limitations of the Sex Discrimination Act
Key Issue 22: Changes to income support payments for single mothers
Key Issue 3: Reduced funding and political support for specialist women’s services

**Background:**

3.1 Specialist women’s services (i.e. ‘women’s only’ services) are crucial to achieving gender equality. Specialist women’s services complement, not replace, the need to mainstream gender equality into the broader service system. They provide a physically and emotionally safe space where women can access support and advice from people who are trained to understand their unique needs. Specialist women’s services also recognise and respond to the intersecting and compounding forms of discrimination that women face, which can limit their full enjoyment of citizenship. Despite their importance, in recent years, a number of changes of government at a State and Federal level have resulted in a loss of funding and political support for specialist women’s services, including specialist women’s legal services (discussed further in Key Issue 10).

**2010/2012 CEDAW Committee Consideration:**

3.2 In its 2010 concluding observations the CEDAW Committee recommended that Australia develop strategies to prevent homelessness resulting from domestic violence and ensure that women who are victims of domestic and family violence and their children are provided with appropriate and ongoing accommodation and integrated support. The Committee further requested that the Australian Government provide additional information (by way of a follow-up letter) regarding measures taken to assist and rehabilitate survivors of violence.

3.3 Upon considering the further information provided by Australia in its follow up letter (received on 22 November 2012), the CEDAW Committee showed concern that the Australian Government’s National Partnership Agreement on Homelessness did not have specific core outputs addressing the intersection between domestic violence and homelessness. The CEDAW Committee concluded that Australia had failed to provide sufficient information on strategies taken through the National Plan to Reduce Violence against Women and their Children (2010-2022) to address homelessness resulting from domestic violence and requested that it provide further information on this issue in its next periodic report.
Positive Developments:

3.4 The continued provision of core funding for the six National Women’s Alliances to undertake advocacy initiatives to support gender equality

Remaining Challenges:

3.5 A number of recent policy changes at a State and Federal level have resulted in a loss of funding and support for women’s specific services. Examples include:

- As part of the New South Wales (NSW) State Government’s Going Home, Staying Home reforms, homelessness support services in NSW were required to re-tender for their government funding. In inner city Sydney, only one of nine available funding packages (worth $1.1 million annually) was for a women specific service. As a result, a number of women’s only refuges were forced to close their doors. The closure of women specific homelessness services is of great concern given that domestic violence is the single biggest cause of homelessness among women and their children in Australia and half of all women who request immediate accommodation are turned away each night due to high demand and insufficient resources.

- In 2013, in response to the Queensland Commission of Audit Final Report, the Queensland Government announced a wide scale program of social services sector reform. One of the objectives of these reforms was to improve the efficiency and effectiveness of grant and funding programs to non-government organisations (NGOs). As part of this program, the Queensland Government is currently re-commissioning NGOs in the youth services sector. There are concerns among civil society stakeholders that women’s specific services will be the next sector to face re-commissioning and that this process will likely lead to reductions in funding and the loss of specialist women’s services.

- In December 2013, the Australian Government cut approximately $3.6 million in funding from the National Family Violence Prevention Legal Services (FVPLS) Program. This followed on from a previous decision in 2012, in which the National FVPLS Program lost funding for its prevention and early intervention activities, with funds diverted to the Northern Territory Stronger Futures program. These substantial and continued funding cuts are of significant concern given the fact that Aboriginal women are hospitalised for non-fatal family violence assaults at 31.4 times the rate of other women. See paragraph 26.4 for impact on women’s legal services.

Recommendations:

We recommend that the Australian Government and all State and Territory Governments:

3.6 Acknowledge the value and importance of specialist women’s services and ensure that there is no net loss to women’s specific services when re-commissioning non-government services.

Inequality Intersects

Information in this part of the report is related to:

Key Issue 10: The capacity of NGOs to engage in advocacy work

Key Issue 26: Gender bias in the provision of legal aid and its impact on women

Also, see pages 7–8 of the Aboriginal and Torres Strait Islander Parallel Report for more information on how this issues affects Aboriginal and Torres Strait Islander women.
Key Issue 4: Proposed amendments to gender reporting requirements in Australian workplaces

Background:

4.1 In March 2011 the Australian Government announced a review of the Equal Opportunity for Women in the Workplace Act 1999 (Cth). This review resulted in the passage of the Workplace Gender Equality Act 2012 and with it, a number of new measures to advance gender equality in Australian workplaces, including a new system of gender reporting requirements for businesses with more than 100 employees. This new system was designed to collect data that could be used by the Workplace Gender Equality Agency (WGEA) to produce industry benchmarks and develop best practice standards to accelerate gender equality in Australian workplaces. These reforms were welcomed by women’s organisations as a step forward for workplace gender equality in Australia. A survey of 2,522 Australian businesses by WGEA also found strong support for these benchmarks across every industry.25

“This reporting requirement is unique and provides world-leading data that is extremely valuable for the individual organisations concerned and the public.”

HELEN CONWAY, DIRECTOR OF THE WORKPLACE GENDER EQUALITY AGENCY

Positive Developments:

4.2 The 2014 introduction of a new Minimum Standard that requires businesses with more than 500 staff to put in place one or more strategies to support and improve gender equality in the workplace, including advancing equal remuneration between female and male employees, implementing flexible work arrangements for employees with caring responsibilities and preventing gender based harassment and discrimination.

Remaining Challenges:

4.3 In early 2014, despite widespread support for the implementation of these new reporting requirements, the Government announced its intention to further review Australia’s system of workplace gender reporting. In initiating a period of public consultation, the Australian Government Department of Employment stated that:

“The workplace gender equality reporting burden on employers is significant, with the cost to business estimated to be over $9 million per annum. This is due to the complexity of some of the data and information requirements.”

The Government’s proposed reforms include lifting the reporting threshold to companies with 1000 or more staff (as opposed to the current threshold of 100 of more staff) and reducing the number of items that businesses are required to report on.

2010/2012 CEDAW Committee Consideration:
None
Concerned that these reforms would seriously impact the scope, depth and accuracy of workplace gender equality data, a coalition of business and women’s groups (known as the Coalition of Working Women) launched an advocacy campaign to protect the gender reporting requirements. As a direct result of this pressure, on the 25 March 2014, the Government announced that reporting requirements for businesses with more than 100 employees would remain unchanged and that additional reporting requirements for businesses, which were due to commence on 1 April 2014, would be deferred to allow for more consultation. Retaining Australia’s world-class system of gender reporting requirements will be crucial for generating sufficient data to inform the evidence based policies and programs required to address the gender pay gap (see page xx) and achieve equality for women in Australian workplaces. The formal consultation period will end on 30 September 2014.

**Recommendations:**

We recommend that the Australian Government:

4.5 Acknowledge the importance of accurate, comprehensive and gender disaggregated data in closing the gender pay gap and prevent any further streamlining or simplification of gender reporting requirements in Australian workplaces.

4.6 Extend the new Minimum Standard requiring businesses with more than 500 staff to put in place one or more strategies to support and improve gender equality in the workplace, to businesses with more than 100 staff.

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**Inequality Intersects**

Information in this part of the report is related to:

- **Key Issue 9:** The participation of women in public decision-making  
  - Page x
- **Key Issue 18:** The gender wage and superannuation gap  
  - Page x
Key Issue 5: The impact of the media’s portrayal of women on negative body image

Background:

5.1 The fashion, advertising, media and entertainment industries play a significant role in shaping the cultural ideals of Australian society. For this reason, messages about beauty portrayed in popular media (television, magazines, internet etc.) can contribute to negative body image among women. For example, more than 28 published empirical studies, with over 4000 women and men from the UK, Europe, North America and Australia demonstrate that women and men report more positive body image and less body image dissatisfaction after reviewing media images of average size models compared to thin models.30

5.2 Research shows that young women are particularly susceptible to body image pressures. This was demonstrated in a recent national survey of young Australian women and men, which found that body image was a major concern for 42.1% of young women compared to only 14.4% of young men.31 Even more concerning is the fact that while the percentage of young men concerned about body image has decreased significantly since 2010, the percentage of young women concerned about body image has remained virtually unchanged.32 This was supported by the results of the She Speaks Survey, which surveyed 1643 young women between the ages of 15–30 and found that the portrayal of women in the media and its impact on body image was a significant concern:

“An unrealistic idea of beauty is portrayed by the media, this beauty is said to be perfection but in an imperfect world such as ours the problem is perfection doesn’t exist... Real perfection is having flaws and being different because that’s what makes people interesting and independent”.33

2010/2012 CEDAW Committee Consideration:
None

Positive Developments:

5.3 The provision of funding to non-government organisation, the Butterfly Foundation for the establishment of the National Eating Disorders Collaboration.34 It should be noted, however, that while the majority of women experience body image pressures at some point in their lifetime, only a very small number of these women will develop an eating disorder. Therefore the issue of body image must be approached in the context of gender equality, not only physical and mental health disorders.
Remaining Challenges:

5.4 In 2009, the Australian Government appointed a National Advisory Group on Body Image with the mandate to develop a Voluntary Industry Code of Conduct on Body Image. The Code outlined principles to guide industries to adopt more body image friendly practices, including more diversity in the selection of models, a wider range of clothing sizes in retail fashion, the use of realistic and natural images of people, and the requirement to disclose when images have been digitally manipulated. The National Advisory Group also proposed a National Strategy on Body Image, which made a variety of recommendations to the Government on how to address body image issues among young people. Unfortunately, five years after its introduction, the Voluntary Code of Conduct has been largely ineffective in changing the way that women are portrayed in the media. In May 2011, the former Chair of the National Advisory Group publically stated that the Voluntary Code had failed in its objective and cast doubt on the effectiveness of voluntary codes of conduct as a method of regulating the media’s portrayal of women.

5.5 Recently, there have been renewed calls for Australia to follow the lead of other countries, such as the UK, France, Norway and Israel and take more decisive action to promote healthy body image. For example, new laws introduced in Israel require any ‘photo-shopped’ image to carry a clear warning covering seven per cent of the surface area of the photo. This was echoed by South Australian Senator Helen Polley in her November 2012 speech to the Australian Senate:

“Let’s place ourselves at the forefront of the international push to require disclosure of digitally altered images in advertising.”

SENATOR HELEN POLLEY MP

Recommendations:

We recommend that the Australian Government:

5.6 Provide ongoing funding for evidence based body image and self-esteem programs for girls and boys in Australian schools, including (but not limited to) those that have been endorsed by the National Eating Disorders Collaboration.

5.7 Examine the feasibility of new legislation that requires the media to disclosure digitally altered images in advertising, including engaging the broader community in a public consultation process.

This issue is more likely to negatively impact:

Young women
Key Issue 6: The need to mainstream gender equality into the national curriculum

Background:

6.1 Educational institutions play a crucial role in the development of gender identities, through both the school curriculum and student relationships with teachers and peers. It is therefore essential that these institutions engage students in critical dialogue about gender and power from a young age, assist them to understand and analyse societal pressure to behave within a narrow range of socially accepted forms of masculinity and femininity, and encourage them to develop a gender identity based on equality and respect. Despite this, in 2014, most of the gender mainstreaming work in the Australian education system is decentralised and the dominant discourse is gender neutral.\(^{39}\)

6.2 In 2010, the Australian Government released the first draft of the new national curriculum for Australian schools. This curriculum was the product of more than 30 years of agitation by education experts and two years of negotiations by Federal, State and Territory governments and Catholic and independent school sectors. In 2014, midway through the curriculum’s staged roll out, the Government announced a review of the national curriculum. The outcomes of this review were expected to be released by the 31 July 2014, but were not available at the time of writing.

2010/2012 CEDAW Committee Consideration:

None.

Positive Developments:

6.3 The inclusion of respectful relationships education (albeit with limited gender analysis) into the F-10 Health and Physical Education (HPE) curriculum. However it should be noted that the HPE curriculum is still awaiting final endorsement.

6.4 The Australian Government has increased its focus on, and funding for, stand-alone programs supporting gender equality. This includes providing a total of $9 million in funding between 2009–2013 for community groups to implement respectful relationships education projects in a variety of contexts. The final evaluation of this initiative has not yet been released and future funding allocations are unclear.
Remaining Challenges:

6.5 While beneficial, it is important to note that stand-alone programs and curriculum are not sufficient for achieving gender equality. Such initiatives will only be effective when they are complemented by a whole of school approach that applies a gender analysis across educational sectors, departments, policies and practices. This must be combined with ongoing training and professional development for educators in the area of gender equality.

6.6 The review of the new national curriculum for Australian schools is a unique opportunity to fully integrate gender equality into Australia’s education system, including early childhood education, primary and secondary levels. Mainstreaming gender equality into the national curriculum will allow educators to engage students from an early age to become active, empowered citizens who are able to resist rigid and narrow beliefs and attitude; challenge destructive forms of masculinity and femininity; construct non-violent gender identities; and ultimately transform unequal power dynamics in schools and in the wider community.

Recommendations:

We recommend that the Australian Government:

6.7 In consultation with civil society groups and with the advice of qualified gender specialists, ensures that gender equality is mainstreamed into the entire national curriculum, including early childhood, primary and secondary education.

6.8 Renew and expand funding for respectful relationships education projects that apply an evidence based and gendered analysis to the issue of sexual assault and domestic and family violence, with a focus on building on promising approaches.

This issue is more likely to negatively impact: 

Young women
Spotlight on
Single Mothers and their Children

There are approximately 550,000 single mothers living with their dependent children in Australia, which comprises around 84% of all single parents. While relationship breakdown is the most common way that women become single mothers, an increasing number of women in Australia are having children outside a relationship, either through choice or circumstance. While their pathways to single parenthood are diverse, many single mothers share common experiences of stigma and discrimination, economic disadvantage and social isolation. At the root of these experiences are the systems and institutions that largely fail to achieve justice for single mothers and at worst, perpetuate and further entrench gender inequality.

Key themes that emerged during consultations with single mothers and those who support them included:

**Stigma and Discrimination**
Single mothers told us that they regularly experience stigma and discrimination, both from individuals and the institutions designed to support them. Women at the consultation reflected on the common stereotypes, which include the belief that single mothers would prefer to be passive recipients of welfare than get a job, are vexatious and scorned and have multiple children to different fathers. On the other hand, in the view of the women at the consultation, single fathers are often romanticised and praised for their commitment and courage. Lesbian single mothers often face additional stigma due to their sexual orientation and women at the consultation reflected that those who have children from a previous heterosexual relationship can experience violence and abuse from their children’s father and family. Lesbian women are unprotected from discrimination by religious institutions (who operate an increasingly large proportion of Australia’s schools and social services), who have wide exemptions under State and Federal Anti-discrimination laws (see page x).

**Income Support Payments**
Despite being one of the wealthiest countries in the world, Australia has the 5th highest rate of poverty among sole parent families in the OECD, with half of all Australian children living in poverty coming from sole parent households, mostly headed by women. More than a decade of successive erosion of family support payments (the principle source of income for the majority of sole parents) has left single mothers and their children among Australia’s most vulnerable citizens. The enactment of the Social Security Legislation Amendment (Fair Incentives to Work) Act 2012 forced thousands of single mothers onto lower paid income support payments designed for job-seekers. Additional changes proposed in the Australian Government’s most recent Budget will result in a further reduction in payments to the majority of single mothers of between $37-$58 per week. A deeper analysis of this issue can be found on page xx.
Child Support Agency

Institutional discrimination and inequality is built into the policies and procedures of the Child Support Agency (CSA). For example, the Agency requires single mothers to provide evidence that they have pursued their child’s father for child support and failure to do so can result in their own income support payments being reduced. This policy unfairly shifts the responsibility for ensuring that child support is paid away from the father and the Agency and onto the mother.

Single mothers also report that deficiencies in the compliance procedures of CSA mean that they often experience sporadic or late child support payments, or the Agency’s mandated minimum payment of just $1 a day. The true picture of the child support debt is under-represented as the CSA only nominates debt that arises from an ‘agency collect’ and does not include debt which is part of a Private Collect agreement, which is now the most common form of collection method in Australia. Several single mothers spoke of experiencing financial violence, where their ex-partners manipulated the system and used withholding child support as revenge for broken relationships.

Family Law System

Access to affordable legal representation continues to be a significant issue for single mothers who seek justice from the family courts; with the justice system at its most ineffective in cases where women have experienced violence and abuse (see page xx for more information). For example, the presumption of ‘equal shared parental responsibility’, which requires both parents’ consent for major, long-term decisions affecting the child, continues to place victims of violence and their children at risk by providing perpetrators with legitimised opportunities to exert ongoing control and decision-making in the family. While the presumption can be rebutted in situations of family violence, this does not always happen in practice. A lack of a requirement for all family report writers to have clinical experience and mandatory training in the nature and dynamics of family violence means family violence is not always adequately considered in such reports. Additionally, inadequate legislative protections continue to allow alleged perpetrators of violence to directly cross-examine their victims in family law cases, where they are unrepresented (see page xx for more information).
Article 6

Trafficking and exploitation of women

Article 6 of CEDAW refers to Australia’s obligation to end all forms of trafficking and exploitation of women.

Key Issue 7: Improving the legal response and support services available to trafficked women

Background:

7.1 Australia is traditionally a destination country for women who have been trafficked, however the exact number of people trafficked to Australia each year is unknown. At June 30 2013, a total of 214 persons (192 women and 22 men) had been referred to the Australian Government’s Support for Trafficked People Program since the program’s inception in 2004. However, barriers that prevent trafficking victims from accessing government support mean that this estimate is unlikely to reflect the total number of people trafficked into Australia. The majority of cases of trafficking in Australia have been identified in the sex industry, however, in recent years the number of trafficked people identified by Australian authorities as exploited in a range of other industry sectors (including construction, hospitality and domestic service) has risen. Fifty-nine per cent of the new investigations conducted by the Australian Federal Police (AFP) related to sexual exploitation, while the remainder related to other forms of labour exploitation. These statistics suggest that the issue of trafficking in Australia is a gendered one, which is more likely to affect women than men.

2010/2012 CEDAW Committee Consideration:

7.2 In its 2012 concluding observations, the CEDAW Committee commended the Australian Government on progress made towards combating human trafficking and slavery, but recommended further action including:

- Adopting a human rights framework in the revised National Action Plan to Combat Human Trafficking and Slavery;
- Improving coordination among government agencies involved in anti-trafficking work;
- Developing best practice guidelines for police and other agencies on the repatriation of victims of trafficking;
- Provide more accommodation options for women trafficked into Australia;
- Undertake an impact assessment of the Bali process; and
- Evaluate and monitor the Asia Regional Trafficking in Persons (ARTIP) project and continue its assistance to ASEAN member states.
Positive Developments:

7.3 The March 2014 announcement of continued core funding for the anti-trafficking work of four Australian NGOs: Australian Catholic Religious Against Trafficking in Humans (ACRATH), Anti-Slavery Australia (at the University of Technology Sydney), Project Respect and Scarlet Alliance.

7.4 The maintenance of the National Roundtable on Human Trafficking and Slavery as a model of collaborative practice between government, community, academics, unions and business to develop best practice responses to human trafficking, slavery and slavery-like practices. Two working groups have been established through the roundtable: the Communication and Awareness Working group, which has focused on the development of awareness raising material, and the Supply Chains Working Group, which was established in May 2013 but is yet to be convened.

Remaining Challenges:

7.5 In 2013, the Australian Parliament passed two major pieces of legislation relating to human trafficking and slavery:

- The Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013 (Cth), which amongst other things, introduced a new definition of ‘coercion’ into the Criminal Code and new offence of forced marriage, including amendments to the provisions dealing with court ordered reparation provisions; and
- The Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Act 2013 (Cth), which provides vulnerable witnesses, including victims of human trafficking and slavery, with increased protection while they engage in the criminal justice process, including amendments to the provisions dealing with court ordered reparation provisions.

While some organisations heralded this new legislation as a positive step towards combating human trafficking and slavery, others believe that trafficking related offenses are already sufficiently covered by existing legislation and that additional laws impede a rights based approach to trafficking and risk criminalising migrant sex workers.

7.6 While new legislation has resulted in an increase in investigations relating to trafficking offences, the number of convictions remains critically low. Since 2004, the AFP has undertaken more than 430 investigations into allegations of trafficking in persons and slavery-related offences, yet these investigations have yielded only 17 convictions. Some advocates believe that attempting to increase the number of trafficking related convictions is not the most effective way to ensure justice for women and that the Australian Government should instead focus its resources on increasing avenues for statutory compensation and improving access to a full range of support services for trafficking victims.
A criminal justice approach to human trafficking and slavery remains one of the greatest barriers to trafficked women accessing justice. Ongoing access to the Australian Government’s Support for Trafficked People Program beyond the first 45 days is still contingent on the victim/witness being identified and being willing and able to participate in criminal justice proceedings. Trafficked women may be unwilling or unable to provide evidence in criminal investigations and prosecutions for multiple reasons including trauma, the fear of deportation, retribution from traffickers, the stigma associated with being identified as a trafficked person, poor trust in the criminal justice system and lack of meaningful support.48

While the significant number of women who are trafficked into Australia for sexual exploitation must be acknowledged, it is important not to focus discussions and interventions solely on sex trafficking/sexual slavery. An overly sexualised discourse on human trafficking prevents other forms of human trafficking from being accurately identified and addressed, particularly labour exploitation, which accounts for almost half of all cases. Some advocates are also concerned that an undue focus on trafficking in the sex industry can endanger the human rights of migrant sex workers, especially given that extensive research shows that trafficking and exploitation is not the experience for most migrant sex workers in Australia.49, 50

In her November 2011 visit to Australia, the UN Special Rapporteur on Trafficking in Persons, Ms. Joy Ngozi Ezeilo, noted that:

“I have observed that the issue of trafficking in persons in Australia is sexualized and often conflated with prostitution. As I have noted in the course of my work as Special Rapporteur, there remains no conclusive link between the legalization or criminalization of prostitution and the existence of trafficking for sexual exploitation. There is need to move away from over-sexualizing the discourse on trafficking, which invariably contributes to the common stereotype of victims of trafficking as being women and girls forced into prostitution or other forms of sexual exploitation. Furthermore, awareness is required to ensure that anti-trafficking policies do not have the unintended consequence of causing gender discrimination against women. For example, I have learnt that migrant workers from certain countries and ethnicity who are considered vulnerable to sex trafficking may be denied visas or entry to Australia as part of the Government’s border enforcement regime. I wish to reiterate that vulnerability to trafficking is exacerbated by lack of equal opportunity and gender inequalities. Government policies should not be reinforcing these unhelpful stereotypes.”51
7.9 The drafting of the National Action Plan to Combat Human Trafficking and Slavery is an opportunity for the Australian Government to develop a human rights and victim centered response to human trafficking and slavery. This will require the development of key prevention strategies, including targeted awareness raising initiatives for visitors to Australia; awareness programs delivered to the broader Australian community; specific programs delivered to front-line personnel; the establishment of national and state referral protocols; more effective ways to identify and support trafficked people; and the establishment of a national compensation scheme to provide financial recognition to victims of human trafficking.

Recommendations:

We recommend that the Australian Government:

7.10 Implement the recommendations of UN Special Rapporteur on Trafficking in Persons 2011 Report, including:

- Establish a national comprehensive compensation scheme for victims of trafficking;
- Fully delink support for trafficked people from the criminal justice process;
- Improve the existing visa scheme that provides visas to trafficked people by extending the initial visa to any person identified or provisionally identified as trafficked to allow a stay of at least 90 days for reflection and recovery; and
• Develop specialist, child-centred service for any minors identified as being trafficked in recognition that the existing program is an adult centred service and thus can not adequately meet the needs of minors. Extend the initial reflection and recovery period (also known as the Assessment Stream of the Support Program) from 45 days to 90 days for all persons identified as having been trafficked.

• Extend the Bridging Visa F, under the Human Trafficking Framework, from 45 days to 90 days (in line with the recommendation above).

7.11 Develop a whole-of-government strategy to ensure that Commonwealth procurement policies ensure slavery-free supply chains in the provision of goods and services, including convening the Supply Chains Working Group of the National Roundtable.

7.12 Establish a wide-ranging review into the effectiveness of the victim support program, including visa support, entitlement to education services, financial support and the status of effective remedies.

7.13 Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).


This issue is more likely to negatively impact:

*Immigrant and refugee women*

*Sex workers*

### Inequality Intersects

Information in this part of the report is related to:

**Key Issue 8**: Adopting a rights based approach to sex work  
**Key Issue 11**: The reduced profile of the Australian aid program  
**Key Issue 14**: Insufficient access to support services for women on temporary visas  
**Key Issue 25**: Lack of support for vulnerable witnesses in family violence cases  
**Key Issue 27**: Early and forced marriage of women and girls
Key Issue 8: Adopting a human rights based approach to sex work

Background:

8.1 Australian sex workers continue to experience pervasive barriers to claiming their human rights, including restricted access to health services, stigma and discrimination and a range of legal and regulatory issues including criminalisation, licensing, registration and mandatory HIV testing in some jurisdictions. Legislative and policy approaches of each State and Territory are constantly changing and appear to be influenced more by the ideological perspectives of successive governments than evidence and best practice. This has placed the sex work industry in an almost constant state of reform, requiring an even greater need for advocacy to protect the human rights of those employed in it.

2010/2012 CEDAW Committee Consideration:

8.2 In its 2010 concluding observations, the CEDAW Committee recommended that Australia adopt measures to discourage women and prevent girls from entering into prostitution and to develop effective strategies to reduce the demand for prostitution and support women who wish to discontinue their lives in prostitution.

Positive Developments:

8.3 Australia’s world recognised partnership approach, which includes the provision of funding and resources to sex worker led organisations and the recognition of sex workers as key stakeholders to be consulted in the development of policies, has resulted in the virtual elimination of HIV amongst sex workers in Australia.

Remaining Challenges:

8.4 Recent moves by certain States and Territories to impose excessive surveillance on the sex industry, such as the registration of sex workers and licensing of venues, and greater punishment for both sex workers and their clients, are a threat to women’s human rights. Recent examples of this include:

- Repeated attempts in Western Australia to introduce legislation that proposes heavy licensing, registration and criminalisation of the sex work industry.
- The recent proposal in New South Wales to introduce licensing of brothels, threatening to end almost two decades of decriminalisation; and
- The 2012 amendment to Queensland’s Anti-Discrimination Act permits accommodation providers to legally discriminate against sex workers.

8.5 One of the major drivers for decriminalisation of sex work in NSW was the finding of the Wood Royal Commission, which showed ‘a clear nexus between police corruption [in the NSW Police Force] and the operation of brothels’. Another study found that illegal sex workers were much more likely than legal sex workers to be harassed by police, which included verbal abuse, racial insults, stalking, phone calls and requests for sexual favours. Increased policing and further criminalisation will severely affect sex workers’ willingness to engage with police in the event of a crime. In criminalised jurisdictions in Australia, fear of prosecution has been found to severely limit sex worker’s ability to seek information, support and health care.
Recent research has found that rights based approaches to sex work are vastly more effective at achieving positive health outcomes for women and men. For example, a 2012 report by UNAIDS, United Nations Population Fund (UNFPA) and United Nations Development Programme (UNDP) on sex work and the law in the Asia Pacific found that legal empowerment of sex worker communities underpins effective HIV responses and that better public health and human rights outcomes have been achieved in jurisdictions that have decriminalised sex work, compared to those adopting regulatory models. A recent comparative study of three different regulatory models in Australia (criminalisation in Western Australia, decriminalisation in New South Wales, and regulation in Victoria) found that decriminalisation was associated with better health outcomes for women and that licensing of sex work is a threat to public health and should not be regarded as a viable legislative response.

**Recommendations:**
We recommend that the Australian Government:

8.7 Provide adequate funding and resources for community led sex worker organisations to deliver peer based advocacy and programs that support sex workers to claim their human rights.

8.8 Work collaboratively with State and Territory counterparts to encourage a consistent legislative and policy approach to the decriminalisation of sex work in Australia using a gender sensitive human rights framework.

**Inequality Intersects**
Information in this part of the report is related to:

- Key Issue 7: Improving the legal response and support services for trafficked women page xx

**This issue is more likely to negatively impact:**

- Sex workers
Article 7
Public participation

Article 7 of CEDAW refers to Australia’s obligation to eliminate barriers to women’s full participation in public and political life.

Key Issue 9: The participation of women in public leadership and decision-making

Background:
9.1 During this reporting period Australia has been led by its first female Prime Minister (The Honourable Julia Gillard) and we have had our first female Governor General (Dame Quentin Bryce); the first female Attorney-General (The Honourable Nicola Roxon) has been appointed, the first female Foreign Minister (The Honourable Julie Bishop) has been appointed and the first Aboriginal woman has been elected to the Australian Parliament (Senator Nova Peris). Nonetheless, women in Australia continue to face multiple barriers to public participation and as a result are under-represented in leadership and decision-making positions in almost every area of public life. For example:

- Women currently make up only 26.7% of the House of Representatives, 16.7% of ministers and 10.5% of cabinet ministers in the current Australian Government and are underrepresented in all eight State and Territory Parliaments. This has resulted in Australia dropping to 48th place in the world for the representation of women in parliament.

- Women still only comprise 18.2% of board directors on Australian Stock Exchange (ASX) top 200 companies, even after recent reforms, which resulted in a 600% increase in female board appointments (see positive developments).

- Women make up only 24.4% of board directors (9% of presidents) and 20% of CEOs in National Sporting Organisations; an increase of only 10% in the past decade.

- Although women occupy 51% of board positions and 60% of senior management positions in the not-for-profit community welfare sector, their representation is eclipsed by men in organisations with annual turnovers of $30 million or more.

Barriers to public participation are even greater for certain groups of women, including Aboriginal and Torres Strait Islander women, women with disabilities, immigrant women, LGBTIQ women and women in rural and remote areas, with a lack of reliable data making it almost impossible to determine the exact extent of their under-representation.
2010/2012 CEDAW Committee Consideration:

9.2 In its 2010 concluding observations, the CEDAW Committee noted increases in women’s representation in certain areas of leadership and decision-making, but remained concerned that measures taken to enhance the participation of Aboriginal and Torres Strait Islander women and women with disabilities remained inadequate. The Committee urged the Australian Government to adopt targeted measures, including temporary special measures, to ensure women’s equal participation and representation in leadership and decision-making in public and political life.  

Positive Developments:

9.3 In 2013, the first Aboriginal woman (Senator Nova Peris) was elected to the Australian Parliament.

9.4 In 2011, the ASX Corporate Governance Council implemented a diversity policy that required all publicly listed companies in Australia to set and report on gender diversity targets. Anticipation of these reforms resulted in a 600% increase in female board appointments in the corporate sector.

9.5 As a direct result of targets stipulating that at least 40% of all decision makers on government boards and committees must be women, women now make up 41.7% of appointments to Commonwealth Government boards and bodies. Representation of women on Government boards is supported by a number of resources including BoardLinks, AusGovBoards and AppointWomen.

9.6 The provision of increased funding for the Board Diversity Scholarship Program ($650,000 over two years), which will allow 140 women, with a focus on women in rural and remote areas, to undertake training with the Australian Institute of Company Directors.

9.7 The Australian Sex Discrimination Commissioner’s ‘Male Champions of Change’ program, a group of Australia’s most influential businessmen and male public sector leaders committed to implementing strategies to promote the representation of women in leadership positions.

9.8 The Australian Sports Commission’s announcement of new governance principles for National Sporting Organisations (NSOs), which include targets for women’s representation in leadership and decision-making. These principles are mandatory for the top seven funded NSOs and include financial disincentives for non-compliance.

9.9 The decision by the National Congress of Australia’s First Peoples to mandate during its establishment the requirement that 50% of its Board of Directors must be women.

Remaining Challenges:

9.10 Certain groups of women continue to face additional barriers to public leadership and decision-making. For example:

- Women from culturally and linguistically diverse backgrounds face additional barriers to participating in leadership and decision-making positions, including poor access to leadership pathways, lack of confidence, discrimination (on the basis of their gender and ethnicity) and limited professional networks.
• Women and girls with disabilities in Australia are often excluded from, and denied opportunities to participate in decision-making about issues that affect their lives and those of their families, community and nation. For almost a decade, international human rights treaty monitoring bodies, including the CEDAW Committee, have expressed concern at Australia’s slow progress in ensuring the equal participation of women with disabilities in leadership and decision-making positions in public and political life, and have urged successive Australian governments to address this issue.

• Young women report that confidence is the main thing holding them back from being a better leader.

• Aboriginal and Torres Strait Islander women continue to be under-represented or completely absent in almost every area of public life. The reasons for this, as well as possible solutions, are discussed in detail in the Aboriginal and Torres Strait Islander Parallel Report.

**Recommendations:**
We recommend that the Australian Government:

9.11 Embed targets for women’s participation on boards and committees within governance standards (tied to funding) for all publically funded bodies, including government owned corporations, superannuation trusts, health funds and research and development organisations.

9.12 Support the development of a reliable evidence base on the status of under-represented groups of women in leadership and decision making (including Aboriginal and Torres Strait Islander women, women with disabilities, women from culturally and linguistically diverse backgrounds, LGBTIQ women and women in rural and remote areas) to inform effective programs and policies.

9.13 Continue to provide funding and resources for long-term, evidence based programs to develop the leadership potential of women, with a specific focus on under-represented groups of women.

*This issue is more likely to negatively impact:*

- **Women with disabilities**
- **Immigrant and refugee women**
- **LGBTIQ women**
- **Rural women**
- **Aboriginal and Torres Strait Islander women**
- **Young women**

**Inequality Intersects**
Information in this part of the report is related to:

- **Key Issue 4:** Amendments to gender reporting requirements in Australian workplaces page xx
- **Key Issue 18:** The gender wage and superannuation gap page xx

See pages 9–11 of the Aboriginal and Torres Strait Islander Parallel Report for more information on Article 7 and how it relates specifically to Aboriginal and Torres Strait Islander women.
Key Issue 10: The capacity of non-government organisations to engage in advocacy work

Background:

10.1 The advocacy work of NGOs plays a crucial role in ensuring a thriving democracy where all citizens have the right to participate in the processes of government. They achieve this by translating government policy and its implications to the public, providing input into formal procedures, such as inquiries and public consultations and identifying areas for policy and legislative reform on behalf of marginalised groups, including women.

10.2 Between 2010 and 2013, the Australian Government made significant progress in building meaningful relationships with the not-for profit (NFP) sector by instituting a raft of reforms, including:

- The development of the National Compact between the NFP Sector and the Federal Government (2010);
- A Productivity Commission inquiry into the value of the NFP sector in Australia (2010);
- The establishment of the Australian Charities and Not-For-Profits Commission (2012);
- The establishment of a Code of Conduct for Engagement with the NFP sector (2013); and
- The adoption of the Not-for-profit Sector Freedom to Advocate Act 2013 (Cth), which removed ‘gag’ clauses in federal funding agreements that prevented NFPs from advocating.

10.3 Following their election in 2013, the Government disbanded the Office of the Not-For-Profit Sector, which was responsible for the Compact and the Code of Conduct, and shortly after, announced plans to abolish the Australian Charities and Not-For-Profits Commission (ACNC).

2010/2012 CEDAW Committee Consideration:
None.

Positive Developments:

10.4 Continued provision of core funding to the National Women’s Alliances to engage in advocacy and networking initiatives to promote women’s rights, including the provision of funding to prepare the 2014 CEDAW Shadow Report and Aboriginal and Torres Strait Islander Parallel Report.

10.5 The Productivity Commission’s inquiry Access to Justice Arrangements, which acknowledged the vital role that Community Legal Centres (CLCs) play in law reform, policy development and advocacy.24
Remaining Challenges:

10.6 In December 2013, the Australian Government announced a funding cut of $43.1 million for community legal assistance services over four years from 2013–14.\(^6\)

In addition to funding cuts, changes to funding arrangements have further diminished the capacity of legal assistance service providers to undertake law reform and policy advocacy work. These changes include:

- The defunding of the National Aboriginal and Torres Strait Islander Legal Services (NATSILS) and all Law Reform and Policy Officer positions with State and Territory Aboriginal and Torres Strait Islander Legal Services.\(^7\)
- Changes to funding agreements that prevent CLCs from using Commonwealth funding for law reform and policy and advocacy work and Legal Aid Commissions from using Commonwealth funding for the purpose of lobbying government or elected representatives, or to engage in public campaigns.\(^7\)
- Only funding Family Violence Prevention Legal Services (FVPLS) to deliver services other than law reform or advocacy services.

These changes are in direct opposition to the Productivity Commission’s Draft Report on its inquiry into Access to Justice Arrangements, which expressed the view that advocacy and law reform should be a ‘core activity’ of all CLCs.\(^7\)

Recommendations:

We recommend that the Australian Government:

10.7 Recognise the importance of, and provide adequate funding for, legal assistance service providers to undertake law reform and advocacy work.

This issue is more likely to negatively impact:

Women with low incomes
Aboriginal and Torres Strait Islander women
Survivors of violence

Inequality Intersects

Information in this part of the report is related to:

Key Issue 3: Reduced funding and support for women specific services  page xx

See page 19 of the Aboriginal and Torres Strait Islander Parallel Report for more information on FVPLS
**Key Issue 11: The reduced profile of the Australian Aid Program**

**Background:**

11.1 In October 2013, the Government delivered on its election promise to consolidate Australia’s aid program (then AusAID) within the Department of Foreign Affairs and Trade (DFAT). In doing so, the aid budget was stabilised at around $5 billion in 2014–2015, with future increases only by the consumer price index (CPI). In December 2014, the Government announced further significant cuts to the Australian Aid program, marking a dramatic policy shift for Australia’s aid program, which was previously on a growth trajectory to reach a target of 0.5% of gross national income (GNI). Instead, Australia’s aid program now stands to reach a mere 0.22% of GNI by 2016–2017, its least generous in Australian history.  

**Positive Developments:**

11.2 The continued appointment of an Australian Ambassador for Women and Girls to advocate for gender equality and the human rights of women and girls overseas.  

11.3 The increased focus on gender equality and the empowerment of women and girls in Australia’s new aid program, including the introduction of a set of new performance benchmarks, which will require 80% of aid investments to consider gender issues in their implementation.  


**2010/2012 CEDAW Committee Consideration:**

None.
Remaining Challenges:

11.5 The reduction of the Australian Aid budget also resulted in the defunding of the International Seminar Support Scheme (ISSS). The ISSS was a discrete program that provided financial support to people from developing countries to attend seminars and meetings. Over a nine-year period the ISSS received 1049 applications from 340 separate organisations and supported over 4,500 participants to expand their knowledge base and bring the lessons home to their countries. This occurred at an average cost of $1.2 million per annum. The ISSS provided important opportunities for women’s professional and personal development at an international level.

Recommendations:

We recommend that the Australian Government:

11.6 Review its decision to cap aid funding and re-commit to the target of providing at least 0.5% of Gross National Income as foreign aid.

11.7 Implement a gender budget mechanism (in addition to the performance benchmark on gender) to ensure that the increased focus on gender equality in the aid program is matched with adequate funding.

11.8 Reinstate the ISSS at a cost of $1.2 million per annum.

Inequality Intersects

Information in this part of the report is related to:
Key Issue 12: The alignment of the Australian aid program to trade interests
**Key Issue 12: The alignment of the Australian aid program to trade interests (‘aid for trade’) and its impact on women**

**Background:**

12.1 On 18 June 2014 the Minister for Foreign Affairs announced a major overhaul of Australia’s aid program, focusing heavily on economic growth through private sector partnerships, with the intention to increase the proportion of the aid budget devoted to “aid for trade” from 12.5 per cent in 2014 to 20 per cent by 2020. While the new aid program included some positive gains for women, the alignment of Australia’s aid program towards economic growth and private sector investment must be treated with caution. While the private sector undoubtedly plays a crucial role in the economic growth of so called developing countries, the link between economic growth and poverty reduction is not as clear. In fact, there is an established body of evidence showing that rapid economic growth is a key contributor to poverty and economic inequality, which occurs to the detriment of the world’s poorest, especially women.

**Positive Developments:**

12.2 In 2011, Australia co-sponsored the UN Human Rights Council resolution endorsing the UN Guiding Principles on Business and Human Rights. However the Australian Government is yet to formally incorporate these principles into national law and policy, including aid and development policy.

**Remaining Challenges:**

12.3 Australian companies operating abroad have previously been implicated in human rights violations. By seeking to increase the role of the private sector in the delivery of foreign aid without enacting the UN Guiding Principles on Business and Human Rights to ensure that aid money is not used by businesses to violate human rights, Australia could risk supporting or being complicit in these human rights abuses.

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**2010/2012 CEDAW Committee Consideration:**

None.
Recommendations:
We recommend that the Australian Government:

12.4 Further investigate and measure the relationship between private sector development, economic growth and poverty alleviation, including implementing measures to ensure that sections of the population that are less likely to participate in the formal economy or access the benefits of economic growth, especially women, benefit equally from the Australian aid program.

12.5 Develop a National Action Plan on the implementation of the UN Guiding Principles on Business and Human Rights to ensure a consistent, whole-of-Government approach to Australia’s duty to protect people from corporate human rights violations.

Inequality Intersects
Information in this part of the report is related to:

**Key Issue 11: The reduced profile of the Australian aid program**

See pages 12-13 of the Aboriginal and Torres Strait Islander Parallel Report for more information on Article 9 and how it relates specifically to Aboriginal and Torres Strait Islander women.
By the time they enter the prison system, women already experience a high level of disadvantage and vulnerability. The majority of women prisoners have experienced sexual and physical violence; poor mental health, substance abuse and many have a history of child sexual abuse. As a result, women are often re-traumatised by the prison system, which is designed and built with an ethos of power and control. It has been claimed by some that prisons are the true perpetrators of violence and discrimination against women. Upon release, women face a multitude of complex, interconnected issues that prevent them from claiming their human rights, including lack of accommodation options, few or no social supports, loss of personal effects, debt and unemployment, breakdown in family relationships, difficulty reclaiming custody of their children and ongoing mental health and drug and alcohol issues.

Key themes that emerged during consultations with women with lived prison experience and those who support them included:

**Racism and Discrimination**
While women make up only 7% of the total prison population, the rate of women in prison is growing 20 times faster than that of men. Aboriginal and Torres Strait Islander women are the fastest growing prisoner population in Australia, with a 2011 review of incarceration rates by the Australian Parliament finding that Aboriginal and Torres Strait Islander women are 21.5 times more likely to be incarcerated than non-Indigenous women. Aboriginal and Torres Strait Islander women are also more likely to be imprisoned for less serious offenses and more likely to be on remand (awaiting sentencing) for longer, therefore having less access to the (albeit inadequate) education, health and support services available to the broader prison population. The fact that Aboriginal and Torres Strait Islander women are the fastest growing prisoner population demonstrates significant structural racism within the criminal justice system.

**Mental Health**
Poor mental health is both a cause and effect of imprisonment. Women with severe mental health issues may enter the ‘pipeline’ to prison when police and magistrates are unable or unwilling to find suitable alternatives to treat or manage their mental health (often due to a lack of funding and resources). The experience of incarceration also has a profoundly negative impact on women’s mental health. A recent national study found that women experienced higher levels of psychological distress than men, both when entering and exiting prison, and around half (49%) of them said there was no change in their mental health and wellbeing while in prison. There is also a significant overlap between mental health issues and drug and alcohol abuse among women in prison, with the majority of women who are substance dependent also reporting a mental health issue.

Women who participated in consultations reported that a lack of funding and resources for prison mental health services meant that the most serious cases were prioritised, often leaving women with ‘low level’ mental health problems without support and not enough resources for prevention. Better training mental health for prison staff and police is urgently required, as is mental health first aid training for women prisoners, who often provide the majority of emotional support to their fellow prisoners. It is important to note, however, that these things should not replace the need for broader structural reform to the way that the criminal justice system responds to women with mental health issues.
Child Protection System

Despite the mother generally being the primary care giver prior to incarceration and contrary to a child’s right to maintain relations and have contact with family and maintain cultural identity, many children have limited or no contact with their mother while she is in prison. Women who participated in face-to-face consultations told us that worrying about the wellbeing of their children was one of the greatest causes of stress and anxiety while in prison. In sentencing and considering possible diversionary options, consideration should be given to primary caregiving responsibilities for children, consistent with the United Nations Bangkok Rules.

Structural inequalities within the child protection system act to further entrench gender discrimination. For example, when women experience domestic and/or family violence, rather than holding the perpetrator of violence accountable for his decision to use violence, the children are often removed from the care of their mothers because they are considered not to be acting in a ‘protective manner’. Of great concern is the fact that children who enter the child protection system are much more likely than the broader population to enter the criminal justice system and adult prison later in life.

Access to Justice

There is an inherent and structural gender bias in the way the criminal justice system treats women, for example, even though women commit fewer and less violent offences than men, they are four times less likely to receive a community-based order than a man, despite often being the primary caregiver of any children. Furthermore, in most State and Territories, legal aid in not available to people serving sentences of less than six months. Women are much more likely to serve shorter sentences and the circumstances of women in prison mean that they are less likely to pass merit tests that determine eligibility. Ongoing funding cuts to legal assistance service providers (see page xx) have severely limited women prisoners’ access to legal representation. In their submission to the 2013 Productivity Commission inquiry into access to justice, Women’s Legal Services Australia stated that most of their clients in prison did not have access to legal assistance at the time of sentencing and, in their opinion, would not be in prison or would have received reduced sentencing if they had had access to legal assistance.
Article 9
Nationality

Article 9 of CEDAW refers to Australia’s obligation to grant women equal rights to acquire, change or retain their nationality and the nationality of their children.

Key Issue 13: The treatment of asylum seeking women and children in offshore detention centres

Background:
13.1 As a signatory to the 1951 Refugee Convention, the Australian Government is obliged to process refugee claims for all asylum seekers who enter our territory, regardless of their mode of arrival. In contravention of the Convention, current Australian Government policy prescribes gross discrimination of asylum seekers based on their mode of arrival - plane arrivals are processed in the Australian community and given access to certain rights and services, while boat arrivals are detained indefinitely offshore (currently in facilities located on Manus Island in Papua New Guinea and on the island of Nauru) and then, if found to be refugees, resettled offshore.

13.2 Of particular concern is the treatment of women and girl asylum seekers who have arrived by boat. While ongoing government secrecy makes it difficult to determine exact numbers, it is understood that at the time of writing, 310 women and an unknown number of girls, were currently in detention facilities on Nauru. The conditions in Australia’s offshore detention centres offer inadequate facilities and support for women and girls, many of whom have experienced physical and sexual violence, imprisonment, torture, persecution and the grief of lost family members.

2010/2012 CEDAW Committee Consideration:
None.

Positive Developments:
None.

Remaining Challenges:
13.3 Australia’s offshore detention centres fail to provide a healthy and safe environment for pregnant women, with a lack of nutritional food and inadequate health care. Women who are transferred from Nauru to Australia to give birth have been categorised as ‘high risk’ by Australian doctors upon examination due to both their mental and physical health issues. Further, multiple women have been transferred to Australia to have abortions after deciding they did not want to bring up their children either in detention on Nauru or in the Nauru community. The Australian Government also has a policy of separating pregnant women from their families (partners and other children) and bringing them to the mainland to give birth. In January 2014, fifteen doctors employed by International Health and Management Services on Christmas Island listed their concerns about standards of medical care and practices at the island’s detention centres. Their letter claimed that: “Antenatal care is performed far below any accepted Australian standard and places pregnant women and their children at unnecessary risk of harm.”

44 | 2014 CEDAW SHADOW REPORT
13.4 The offshore resettlement of women and girl asylum seekers is also deeply concerning, especially given the fact that:

- Nauru has a maternal mortality rate 35 times higher than Australia.\textsuperscript{101}
- At least 2 out of 3 women in PNG have experienced domestic violence.\textsuperscript{102}

**Recommendations:**
We recommend that the Australian Government:

13.5 Process women and families seeking asylum onshore in the Australian community, ensuring they have access to Medicare, community support services and the right to work and study until their claims for asylum are assessed.

13.6 Ensure that pregnant women are never held in offshore detention and are not separated from their partners or other children in order to come onshore to give birth. Further ensure that women receive appropriate services in connection with their pregnancy, including adequate nutrition during pregnancy, access to medical care and a safe, healthy and private place to breastfeed.

13.7 Commit to resettling all women and girls who have sought asylum in Australia and are found to be refugees, in Australia (not in a third country) and ensure that they have access to family reunion visa pathways so they can reunite with children and partners who did not make the journey to Australia with them.

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**Inequality Intersects**
Information in this part of the report is related to:

- **Key Issue 2:** Failure to adopt a National Human Rights Act  
- **Key Issue 11:** The reduced profile of the Australian aid program
Key Issue 14: Insufficient access to support services by women on temporary visas who are experiencing violence

Background:

14.1 Women who migrate to Australia from abroad may face additional risk factors that increase their likelihood of experiencing violence, these include lack of familial and social support networks, low levels of language proficiency, poor understanding of the Australian legal system and in some cases, dependence on an Australian sponsor. Women on temporary visas (including tourists, students, temporary workers and prospective spouses) who are experiencing family violence are particularly vulnerable, especially those whose visa status is dependent on a sponsor. In some cases, threats by a sponsor to ‘withdraw’ marriage or sponsorship arrangements resulting in them having to return home can be used to prevent women reporting the violence to the police or accessing support. Even when these women do report the violence to the police, they often find they are unable to access legal protections and basic support services because of their visa status.

14.2 In July 2010, the Australian Law Reform Commission (ALRC) was asked to inquire into the treatment of family violence in Commonwealth laws (other than the Family Law Act 1975), and to identify what improvements could be made to relevant legal frameworks to protect the safety of those experiencing family violence. The final report, released in 2012, made a number of recommendations to expand protections for women who were migrating to Australia. They included extending the Family Violence Provisions of the Department of Immigration’s Migration Regulations (1994) to all secondary visa applicants for onshore permanent visas and offering increased protections to certain temporary visa holders (including prospective marriage visas) who were experiencing family violence but were yet to marry their partner.

2010/2012 CEDAW Committee Consideration:

None.
Positive Developments:

14.3 In November 2012, in response to the ARLC Report, the Australian Government introduced amendments to the Family Violence Provisions (FVPs), which allowed women who were primary applicants on all partner/spousal visas and certain skilled business visas who were applying for permanent residence in Australia to continue with their application if their relationship ended due to family violence.

Remaining Challenges:

14.4 While the 2012 amendments to the FVPs were an important step in assuring that women experiencing family violence could access legal rights and basic support services, a number of groups of women remain unprotected by these amendments, leaving them without legal rights to access basic support services including social security, Medicare, legal assistance or crisis accommodation. Of particular concern are the female partners of temporary skilled visa holders (457 visas). Women on this visa type who have experienced family and domestic violence are unable, even after two years of living in Australia, to apply for permanent residency under the FVPs. This threat of having to return home means that women experiencing violence are often reluctant to report the abuse to authorities. When they do attempt to escape the abusive relationship, they often find that they are ineligible for support services.

Recommendations:

We recommend that the Australian Government:

14.5 Implement the remaining recommendations of the 2012 Australian Law Reform Commission (ALRC) Report, including the Family Violence Provisions to cover the partners (married or not) of 457 visa holders.

Inequality Intersects

Information in this part of the report is related to:

Key Issue 7: Improving the legal response and support available to trafficked women page xx
Key Issue 25: Insufficient support for vulnerable witnesses in family violence cases page xx
Key Issue 27: Early and forced marriage of women and girls page xx
Key Issue 30: Improving the Australian legal system’s response to family violence page xx

This issue is more likely to negatively impact: Immigrant and refugee women
Article 10
Education

Article 10 of CEDAW refers to Australia’s obligation to ensure that women have equal access to, and outcomes in, education and training.

Key Issue 15: Reduced funding for Technical and Further Education (TAFE)

Background:
15.1 Australia’s TAFE network comprises of more than 1000 campuses located across urban, regional and rural Australia as well as a number of locations in the Asia Pacific region. More than 1.06 million students were enrolled in TAFE in 2012, including 65,000 Aboriginal and Torres Strait Islander students, 80,000 students with a disability and 190,000 students from a non-English speaking background.105 TAFEs play an important role in combating inequality of access to education in Australia. They are a more affordable and accessible option than university because they offer shorter qualifications, less expensive fees and are more widely distributed in rural and regional areas. Every year, TAFEs offer tens of thousands of people in low socio-economic areas with access to educational opportunities to improve their employment prospects and reach their full potential.

2010/2012 CEDAW Committee Consideration:
15.2 In its 2010 concluding observations, the CEDAW Committee noted the relationship between segregation in vocational education and segregation in the workforce, and urged Australia to allocate resources to encourage women to pursue programs of study and professional development in areas that are traditionally dominated by men.106 Adequate funding and resources of TAFEs in crucial to achieving this goal, as they provide the majority of technical education and training (including apprenticeships and traineeships) in male dominated areas, particularly trades (e.g. plumbing, building, mechanics).

Positive Developments:
15.3 The recent introduction of a two year trial to extend the Higher Education Loan Program (HELP) to certain VET qualifications in Queensland, South Australia, Western Australia, Victoria and New South Wales. We look forward to the expansion of this trial, which will significantly increase women’s access to education, particularly in rural and remote areas.
Remaining Challenges:

15.4 In 2012 the Council of Australian Governments (COAG) agreed to a National Partnership Agreement for Skills Reform. Central to these reforms was the Commonwealth Government’s desire for a more open and competitive Vocational Education and Training (VET) sector. This resulted in a number of State Governments introducing policy changes requiring TAFEs to compete in an open market with private training organisations. As a result of these changes, in 2013, over $530 million in funding was cut from TAFEs in Victoria, NSW and Queensland, resulting in significant job losses, increases in course fees and the closure or merger of a number of TAFE campuses. This follows on from a historical reduction in funding to Australian TAFEs, which declined by 15.4% between 2004 and 2009 and by 25.7% since 1997.

15.5 Funding cuts to TAFE will disproportionately affect a number of groups of women who already face significant barriers to education, including:

- **Rural women**: While only 11% of Australians live in rural and remote areas, the percentage of TAFE students from rural and remote areas is almost 20%.
- **Women with disabilities**: Research shows that 6.6% of TAFE students have a disability or long-term medical condition, which is double the proportion of university students with a disability. The NSW Government has forecast that enrolments of students with a disability in NSW TAFEs will fall by 2000 in 2013 as a result of funding cuts.
- **Women on low incomes**: Research shows that people from lower socio-economic backgrounds are more likely to attend TAFE than university.
- **Immigrant and refugee women**: Unlike private training organisations, TAFEs provide literacy and numeracy courses that provide pathways for people from non-English speaking backgrounds to gain new qualifications.
- **Aboriginal and Torres Strait Islander Women**: Research shows that Aboriginal and Torres Strait Islander people are more likely to attend TAFE than university.

15.6 In early 2014, the Australian Senate released the final report of its inquiry into the future of technical and further education in Australia. The Committee’s final report made a number of recommendations, including ensuring adequate levels of support for students with disabilities, improved standards for the registration of training organisations and the immediate reinstatement of TAFE funding cuts by State Governments.

Recommendations:

15.7 That the Australian Government implement the recommendations of the 2014 Senate Inquiry into technical and further education in Australia, including working collaboratively with State and Territory counterparts to ensure that COAGs reforms do not result in further losses of funding for TAFEs.
Key Issue 16: Changes to Higher Education Funding

Background:
16.1 During the early 1970s, there was a significant push to make tertiary education in Australia more accessible to working and middle class Australians. To enable this, the Whitlam Labor Government abolished university fees on 1 January 1974. In 1989, university fees were re-introduced, with a portion of tuition fees subsided by the Government and the remainder paid by the student, who was able to defer payment by applying for an interest free loan. This modified version of this system continues today, through the Higher Education Loans Program (HELP), which is repaid to the Government gradually once a person’s income reaches a certain amount (currently around $50,000 per year). Recent changes to the way that higher education is funded threaten to undermine this system and make university less accessible and affordable for young Australians.

2010/2012 CEDAW Committee Consideration:
16.2 In its 2010 concluding observations, the CEDAW Committee noted the relationship between segregation in higher education and segregation in the workforce, and urged Australia to allocate resources to encourage women to pursue programs of study and professional development in areas that are traditionally dominated by men.

Positive Developments:
16.3 The recent introduction of new measures that will require higher education institutions to commit $1 in every $5 of additional revenue to a new Commonwealth Scholarship scheme to support student access, participation and success.

16.4 The removal of the 25% HELP loan fee and the 20% VET HELP loan fee and the cap on the amount of HELP assistance that a student can access.

Remaining Challenges:
16.5 In 2014, the Australian Government proposed significant changes to the way that higher education tuition fees are funded and regulated. Under these changes, universities will be able to decide for themselves how much to charge for the courses they provide, whereas previously the amount that students had to contribute to their tuition fees was capped. The Government will also reduce its overall contribution per student by around 20%. This change is expected to result in increases in tuition fees of up to 110% in some courses as universities attempt to make up for lost revenue. Changes have also been proposed to the way that HELP loans are repaid. This includes removing bonuses for people who could afford to pay for their fees up front (the Government had previously offered a 10% discount to people who paid their student contribution directly to their university); lowering the repayment salary threshold at which graduates will have to begin repaying their HELP debt; and changing to indexation arrangements for HELP debts.
These changes will have a disproportionately negative impact on young women. There are currently around 150,000 more women than men enrolled in Australia’s universities, despite this, women receive lower returns from university education than men. For example, women holding a bachelor degree earn on average 58% of what men with a bachelor degree would earn over their lifetime. This, combined with the fact that women are more likely to take time out of the workforce to care for children, means that women will take longer than men to repay their HELP debt, which increases the amount of interest owed. Research has shown that women, particularly those with children, will take twice as long to pay off their HELP debt and it has been estimated that 33% of women in Australia will not have paid back their HELP debt by the age of retirement, compared to only 7% of men.

Recommendations:
We recommend that the Australian Government:

16.7 Undertake a gendered analysis of its proposed changes to higher education funding and implement measures to ensure that women are not disproportionately impacted.

Inequality Intersects
Information in this part of the report is related to:

Key Issue 16: Reduced funding and support for TAFEs
Key Issue 18: The gender pay and superannuation gap

This issue is more likely to negatively impact:
Young women
Article 11
Employment

Article 11 of CEDAW refers to Australia’s obligation to eliminate discrimination against women in employment.

Key Issue 17: The cost and quality of childcare and its impact on women’s workforce participation

Background:
17.1 The Australian Government contributes over $5 billion a year (and growing) to Australia’s childcare sector, which includes over 19,400 childcare and early learning services providing services to over 1.3 million Australian children. While this investment is significant, Australia only ranks 32nd of 34 OECD and partner countries in terms of its expenditure on early childhood educational institutions as a percentage of GDP. The majority of the Australian Government’s investment in childcare is provided in the form of two kinds of financial support to families to help cover the costs of childcare: the means tested Child Care Benefit (CCB) and the non means-tested Child Care Rebate (CCR). The CCB and the CCR are crucial in offsetting the rising cost of childcare for Australian families and ensuring that parents are able to return to work after having children.

17.2 There is a direct relationship between the cost of childcare and women’s workforce participation. The labour force participation rate for women in Australia is 65%, compared to 79% for men, while this is above the average for OECD countries, it is well below that of the countries with the highest participation rates for mothers of preschool aged children. Women’s workforce participation makes a significant contribution to the Australian economy; for example, it has been found that increasing female workforce participation by 6% has the potential to add $25 billion each year to the Australian economy. Recent Australian evidence shows that when the price of childcare increases, women will reduce the number of hours they work. This is supported by a recent survey of 644 parents by Mission Australia Early Learning Services, which found that 37% of the parents surveyed would reduce their working hours, and 23% would stop working altogether if childcare subsidies were reduced. The Australian Bureau of Statistics has reported that childcare commitments prevented 287,000 would-be workers (mostly women) from starting a job or working longer hours last year.
2010/2012 CEDAW Committee Consideration:

17.3 In its 2010 concluding observations, the CEDAW Committee urged Australia to develop a comprehensive childcare policy, which includes out of school hours and vacation care and to increase the supply of affordable and quality child care. It is concerning that despite significant investment in childcare by the Australian Government, access to affordable and quality childcare remains a significant issue for Australian families.

Positive Developments:

17.4 In 2012, the Council of Australian Government (COAG) agreed to a National Quality Framework for Early Childhood Education and Care following work undertaken through the 2009 National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care. This framework creates a uniform national approach to the regulation and quality assessment of most long day care, preschool, family day care and outside hours school care services in Australia by providing minimum standards for staff qualifications, child to carer ratios and other aspects pertaining to the quality of early childcare services.

17.5 In 2013, COAG also agreed to the National Partnership Agreement for Universal Access to Early Childhood Education, which followed the National Partnership on Early Childhood Education and Care. This agreement ensures that every child has access to a quality pre-school program for 600 hours per year delivered by a qualified early childhood teacher in the 12 months prior to full-time schooling.

17.6 In 2013 the Australian Government introduced the 12-month Child Care Flexibility Trials, which will support a range of childcare providers to pilot flexible and innovative childcare projects that better meet the needs of Australian families. It is essential that the outcomes of these trials be used to inform programs and initiatives that make childcare more flexible for Australians families.

Remaining Challenges:

17.7 Childcare affordability continues to be a significant issue for Australian families. A recent report by the National Centre for Social and Economic Modelling (NATSEM) has found that the gross cost of childcare has increased by 150% in the past decade, with some families paying up to $170 per day for long day care in the most expensive regions of Australia. There is also evidence to suggest that childcare is less affordable for couples with lower incomes, for example is more expensive for families who can least afford it, with one large survey finding that 50.3% of families in the highest socio-economic bracket considered childcare to be affordable, compared with only 27.1% of families in the lowest socio-economic bracket.

17.8 Another emerging area of concern is the unregulated use of ‘bonds’ by childcare centres. One single mother who participated in a face-to-face consultation in Sydney reported that she was required to pay $2,400 up front to enroll her twins in an inner-city day care centre. This amount was ‘indexed’ annually and the mother was requested to pay an additional amount each year. When she enquired as to how the bond was administered, she was informed that the money was deposited into the operational account of the centre, leaving little assurance that the money would be refunded should the company become insolvent.

17.9 In late 2013 the Australian Government asked the Productivity Commission to undertake a public inquiry into future options for childcare and early childhood learning, with a focus on developing a system that supports workforce participation and addresses children’s learning and development needs. The Productivity Commission’s draft report, released in July 2014, was labeled a ‘mix bag’ by civil society advocates. Recommendations that received broad support included:
• Simplifying the payment and support system for childcare by combining the CCB and the CCR into a single, means tested payment that is paid directly to the family’s choice of approved provider.

• Retaining the National Quality Framework for Early Childhood Education (see positive developments) and extending it to all government funded early childhood education services; and

• Increasing the range of childcare options eligible for government funding, including flexible in-home care provided by qualified staff in accordance with NQF standards.

However the draft report also contained some recommendations that have raised concern among advocates. These include:

• Replacing the Special Childcare Benefit (which provided additional childcare subsidies to families experiencing temporary financial hardship), with the proposed Special Early Care and Learning Subsidy, which would only be available to children deemed to be ‘at risk’ by child protection authorities.

• Removing not-for-profit childcare providers eligibility to payroll tax and Fringe Benefit Tax exemptions, which may increase the cost of childcare.

• Removing preschools from the scope of the NQF and proposed changes to qualification standards of early childhood educators.

Recommendations:

We recommend that the Australian Government:

17.10 Implement a single, means tested childcare payment that provides the most support to low-income families, while ensuring that vulnerable families and children (including families in crisis) do not experience reduced access and financial support for childcare.

17.11 Retain the National Quality Framework for Early Childhood Education in its current form (ensuring no changes to qualification standards and child to carer ratios) and extend it to all government funded early childhood education services;

17.13 Increase the range of childcare options eligible for government funding, including flexible in-home care provided by qualified staff complying with the standards of the NQF.

17.14 Implement a fair system to regulate the use of ‘bonds’ by childcare providers.

This issue is more likely to negatively impact:

Single mothers
Women on low incomes

Inequality Intersects

Information in this part of the report is related to:

Key Issue 18: The gender pay and superannuation gap

Key Issue 22: Changes to income support payments for single parents

54 | 2014 CEDAW SHADOW REPORT
**Key Issue 18: The gender pay and superannuation gap**

**Background:**

18.1 According to the Australian Bureau of Statistics (ABS) women in Australia who work full-time earn on average, 18.2% less than their male counterparts (a difference that equates to $262.50 per week).\(^{132}\) Even more concerning is the fact that there has been no significant reduction in Australia’s gender pay gap in the past two decades, during which time the gender pay gap has hovered between 15% and 18%.\(^{133}\) As a direct result of this gender pay gap, women in Australia retire with, on average, 45.7% less superannuation (retirement savings) than men.\(^{134}\) In recent years there have been a number of efforts by the Australian Government to address this issue, including the introduction of the *Fair Work Act (2009)* and the *Workplace Gender Equality Act (2012)*, both of which resulted in a number of policy reforms aimed at eliminating Australia’s gender pay gap and ensuring economic security for women.

**2010/2012 CEDAW Committee Consideration:**

18.2 In its 2010 concluding observations, the CEDAW Committee welcomed the introduction of the *Fair Work Act (2009)* and urged Australia to develop a National Pay Strategy and specialised unit within with new wage setting body of Fair Work Australia to develop and monitor pay gaps and mechanisms. It further requested that in its next periodic report, Australia provide a comprehensive assessment of the effectiveness of the Fair Work Act in eliminating the pay gap.\(^{135}\)

18.3 The CEDAW Committee also recommended that the Australian Government give due consideration to an increase in Paid Parental Leave (PPL) and to the provision of superannuation on PPL in order to better protect women’s financial security and promote workforce participation.\(^{136}\)

**Positive Developments:**

18.4 The introduction of the *Fair Work Act (2009)* and the establishment of Fair Work Australia was a welcome opportunity to eliminate the gender pay gap by addressing a range of pay equality issues for women in Australia. The Act included a number of provisions aimed of improving pay and conditions for women in Australia, including the right to request flexible working arrangements, greater protections for lower paid workers and increased access to collective bargaining. The most significant of these provisions were revised equal remuneration provisions that enshrined the concept of substantive equality by broadening the definition of unequal pay to include the systematic undervaluing of women’s work. In 2010, Australian Services Union used the provisions of the Fair Work Act to launch a major, national campaign calling for wage increases to the Social And Community Services (SACS) Award. This resulted in a decision by Fair Work Australia to award SACS workers, the majority of whom are women, wage increases of between 19% and 41% over a period of 8 years.\(^{137}\) This case is testament to the ability of the Fair Work Act to directly address the gender wage gap in Australia by securing better wages and conditions for working women.
18.5 In 2011, the Senate reviewed the effectiveness of the *Equal Opportunity for Women in the Workplace Act* (1999). This review resulted in a number of reforms, including the introduction of the new *Workplace Gender Equality Act* (2012) and the establishment of the Workplace Gender Equality Agency (formerly called the Equal Opportunity for Women in the Workplace Agency). Central to these reforms was a shift in focus from reporting on workplace programs to enhance gender equality, to reporting on workplace outcomes on gender equality. This included an improved system of gender reporting in the workplace, which requires businesses with more than 100 employees to report on gender equality outcomes in the workplace across six Gender Equality Indicators (GEIs). This data will be used by WGEA to produce industry benchmarks and develop best practice standards to accelerate gender equality in Australian workplaces (see page xx for more information about this issue).

18.6 Beginning in January 2015, the Australian Government’s new Paid Parental Leave (PPL) scheme is planned to provide families with 26 weeks of leave, paid at replacement wage (as opposed to the current system, which provides 18 weeks of parental leave paid at minimum wage). It is also anticipated that this leave will attract superannuation.

**Remaining Challenges:**

18.7 Despite the introduction of the Fair Work Act and the Workplace Gender Equality Act, there has only been a small decline of 0.5% in the gender pay gap since 2012. It is important that this is not seen as a failure of this new legislation, but an indication of the multifaceted and complex nature of pay equality. It is also evidence that more needs to be done to improve women’s economic security in Australia, including promoting and supporting women in leadership, increasing access to quality and affordable childcare to maximise women’s workforce participation, addressing workplace discrimination and broader gender stereotypes that limit women’s earning potential.
In June 2013, the Workplace Gender Equality Agency convened a meeting of academics, business representatives and industry groups to discuss a range of issues relevant to the gender pay gap. Their final report \(^{189}\) made a number of recommendations on how to improve the communication of gender pay gap issues to employers and strategies that businesses can adopt to address the gender pay gap. These included:

- Develop materials for organisations to enable them to better understand what they can do to address the gender pay gap;
- Conduct further research into aspects of the gender pay gap where research is lacking; and
- Improve collaboration with other programs aimed at addressing the gender pay gap.

**Recommendations:**

We recommend that the Australian Government:

**18.9** Continue to ensure that the Workplace Gender Equality Agency (WGEA) receives adequate funding, resources and powers to perform its role in promoting, monitoring and improving gender equality in Australian workplaces.

**18.10** Continue to ensure that Fair Work Australia receives adequate funding, resources and powers to eliminate the gender pay gap by addressing pay equality issues for women, especially those employed in highly feminised and male dominated professions.

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**Inequality Intersects**

Information in this part of the report is related to:

- **Key Issue 4:** Amendments to workplace gender reporting requirements  
  
- **Key Issue 9:** The participation of women in public decision-making  
  
- **Key Issue 16:** Changes to higher education funding  
  
- **Key Issue 17:** The cost and quality of childcare  
  
- **Key Issue 21:** The shortage of affordable housing for single older women  

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This issue is more likely to negatively impact: All women
Spotlight on Women with Disabilities

In Australia, and across the globe, women and girls with disabilities have fewer opportunities, lower status and less power and influence than men and boys with disabilities. Gender based assumptions and expectations place women with disabilities at a disadvantage with respect to substantive enjoyment of rights, such as freedom to be, and to be recognised as, autonomous, fully capable adults; to participate fully in economic, social and political development; and to make decisions concerning their circumstances and conditions.

This spotlight highlights priority issues where to date, Australia is failing to meet its international human rights obligations to promote, protect, respect and fulfill the human rights of women and girls with disabilities in Australia.

Violence, Abuse, Exploitation and Neglect

Violence against women with disabilities in Australia is more extensive, more severe and more diverse in nature than violence against women in the broader community. Compared to non-disabled women, women with disabilities experience significantly higher levels of all forms of violence and are subjected to such violence by a greater number of perpetrators. Women with disabilities are 40% more likely to be the victims of domestic violence than women without disabilities, and more than 70% of women with disabilities have been victims of violent sexual encounters at some time in their lives. Ninety per cent of women in Australia with an intellectual disability have been subjected to sexual abuse, with more than two-thirds (68%) having been sexually abused before they turned 18 years of age. Crimes of violence committed against women with disabilities often go unreported, and when they are, they are inadequately investigated, remain unsolved or result in minimal sentences.

In October 2013, the Committee on the Rights of Persons with Disabilities expressed its “deep concern” at the high rates of violence perpetrated against women and girls with disabilities and recommended that Australian Governments act urgently to address this violence, including the need to address and investigate, without delay, violence, exploitation and abuse experienced by women and girls with disabilities in institutional settings. These recommendations echo the 2006 and 2010 recommendations of the CEDAW Committee, which also called on Australia to address, as a matter of priority, violence and abuse experienced by women with disabilities living in institutions or supported accommodation.

Of particular and urgent concern is the use of forced/involuntary electroshock (ECT) on women with disabilities. Available data indicates that there is a significant increase in the use of ECT on women with disabilities, who are nearly three times more likely than men to receive this form of treatment. WWDA has called on the Australian Government to commission a gendered, national inquiry into the application for, and use of forced and compulsory medical and psychiatric treatments and interventions on people with disabilities, including research into, and analysis of, the use of electroshock therapy on women and girls in Australia.

Sexuality and Reproductive Rights

Systemic prejudice and discrimination against women and girls with disabilities continues to result in multiple and extreme violations of their sexual and reproductive rights, through practices such as forced and/or coerced sterilisation, forced contraception and/or limited or no contraceptive choices, a focus on menstrual and sexual suppression, poorly managed pregnancy and birth, forced or coerced abortion, termination of parental rights, and gender-based violence. They also experience systemic exclusion from sexual and reproductive health care services, information and education.
Forced sterilisation of women and girls with disabilities is a practice that remains legal and sanctioned by Governments in Australia. Since 2005, the United Nations treaty monitoring bodies have consistently and formally recommended that the Australian Government enact national legislation prohibiting, except where there is a serious threat to life or health, the use of sterilisation of girls, regardless of whether they have a disability, and of adult women with disabilities in the absence of their prior, fully informed and free consent. The Convention on the Rights of People with Disabilities (CRPD) Committee, in its 2013 Concluding Observations for Australia, emphasised its “deep concern” at the ongoing practice of involuntary sterilisation and urged the Australian Government to adopt national uniform legislation prohibiting the use of sterilisation of boys and girls with disabilities, and of adults with a disability in the absence of their prior, fully informed and free consent.

Recent Australian data demonstrates that a parent with a disability (usually a mother) is up to ten times more likely than other parents to have a child removed from their care; with the child removed by authorities on the basis of the mother’s disability, rather than any evidence of child neglect. There is also evidence of women with disabilities being coerced to have hysterectomies after they have given birth to one or more children, who have usually been taken from their care, or as a condition of having access to their child who has been taken from their care. Civil society organisations have called for a national public inquiry into the over-representation of parents with intellectual disabilities in the care and protection system and the legal, policy and social structures that enable the removal and/or threat of removal of babies and children from parents with disabilities.

**Data Collection, Information and Research**

For more than a decade, UN treaty monitoring bodies have expressed their concern at Australia’s neglect of women and girls with disabilities in all aspects of data collection, information and research, and have called on Australian Governments to address this neglect as a matter of urgency. These recommendations are consistent with recommendations made to successive Australian Governments by civil society organisations, parliamentary inquiries and other fora. Yet to date, there has been no progress in this area. Both the CEDAW Committee and the CRPD Committee have repeatedly recommended that the Australian Government “commission and fund a comprehensive assessment of the situation of girls and women with disabilities” in order to establish a baseline of disaggregated data against which future progress towards the Conventions can be measured.
Article 12
Healthcare

Article 12 of CEDAW refers to Australia’s obligation to eliminate discrimination in, and enhance women’s equal access to, health services.

Key Issue 19: The Government’s proposal to seek Medicare co-payments

Background:
19.1 Since its introduction in 1984, Australia’s national healthcare funding system, Medicare, has provided Australians with one of the most affordable, accessible and comprehensive healthcare systems in the world. The aim of Medicare is to give all Australians, regardless of their personal circumstances, access to health care at an affordable cost or at no cost, while allowing choice for individuals through substantial private sector involvement in healthcare delivery and financing.

“The Australian health system is world-class in both its effectiveness and efficiency: Australia consistently ranks in the best performing group of countries for healthy life expectancy and health expenditure per person.”

WORLD HEALTH ORGANISATION

19.2 In its 2014–2015 Budget, the Australian Government proposed measures that would require patients to contribute a $7 ‘co-payment’ towards all General Practitioner (GP), pathology and radiology visits. If passed, this co-payment will apply to both concession cardholders (i.e. low income earners) and non-concession cardholders, however concession cardholders will only pay for a maximum of 10 visits per family member per year before further visits are free. To discourage people from using hospital emergency departments as an alternative to GP visits, the government also removed the restriction that previously prevented State and Territory governments from charging co-payments for GP-like visits to hospital emergency departments.

2010/2012 CEDAW Committee Consideration:
None.
Positive Developments:
19.3 From 1 January 2015, the Australian Government will use the estimated savings from its health reforms (including Medicare co-payments) to establish a world leading Medical Research Future Fund to support medical research in a variety of fields. It should be noted that while the organisations endorsing this report acknowledge the importance of high quality medical research to the future health of all Australians, they do not support using Medicare co-payments a method of funding such research.

Remaining Challenges:
19.4 Affordability of health care is a significant issue for women in Australia. For example the Australian Longitudinal Study of Women’s Health has consistently found that most women rate the cost of doctor’s visits and access to a bulk billing GP as either ‘poor’ or ‘fair’, rather than ‘good’, ‘very good’ or ‘excellent’. This is particularly the case for women with disabilities, who spend more of their income on medical care and health related expenses than men with disabilities, and they are less likely than women without disabilities to receive appropriate health services.

“I think of how many times I’ve already visited the GP this month: for immunisations, for my son’s vomiting, for my niece’s toe, for my asthma medication prescription, for my son’s referral to get a hearing check, four visits for my husband about his dislocated shoulder. As a woman of the family, I make the major health decisions but I’m concerned of how to make them knowing...we currently have 30 dollars extra a month after all things we have carefully budgeted for.”

ROSA (CONTRIBUTED THROUGH THE COPAYSTORIES.COM.AU WEBSITE)

19.5 The Australian Medical Association (AMA) has also raised concerns that applying Medicare co-payments to immunisation visits may discourage families from immunising their child. Applying co-payments to immunisation visits will also disproportionately affect women, particularly single mothers, as the Australian Government’s recommended immunisation schedule requires six separate visits to the GP in the first 18 months.

Recommendations:
We recommend that the Australian Government:
19.6 Work with industry stakeholders, including the AMA to explore an alternative model of Medicare co-payments that includes better protections for vulnerable members of the community.

Inequality Intersects
Information in this part of the report is related to:

Key Issue 20: Accessibility, affordability and availability of health services in rural areas page xx
**Key Issue 20: Accessibility, affordability and availability of physical and mental health services in rural areas**

**Background:**

20.1 In 2011 the Australian Longitudinal Study of Women’s Health produced a special report on rural-urban health differences, which highlights the poorer health of women living in rural, regional and remote areas and differences in access to and use of a wide range of health services. The report concluded that even after adjusting for self-rated health status, morbidity, age, smoking, Body Mass Index (BMI) and physical activity, older rural women (born between 1921 and 1926) have a 14% greater risk of dying than urban women. People living outside major cities are more likely to experience higher rates of poor mental health, substance use disorders and suicide than their urban counterparts. Even though these problems are more likely to affect men, the vital role that women play in providing emotional and practical support to their communities (in lieu of formal health services) and the impact on their own mental health is often overlooked.

20.2 On average, around a quarter of people in remote areas are Aboriginal or Torres Strait Islanders compared to 2.5 per cent in the general population (although the proportion is significantly higher in the Northern Territory and Western Australia). Aboriginal and Torres Strait Islander women have poorer physical and mental health in almost every dimension and are estimated to have a life expectancy 9.7 years less than that of their non-Aboriginal and Torres Strait Islander counterparts. The reasons why health status remains much worse for Aboriginal and Torres Strait Islander Australians are complex, but include a combination of factors such as intergenerational discrimination and racism, lack of access to education, employment and housing, lower income and socioeconomic status, as well as poorer access to a full range of primary, secondary and tertiary health services.

**2010/2012 CEDAW Committee Consideration:**

20.3 In its 2010 concluding observations, the CEDAW Committee recommended that Australia take additional measures to ensure that Aboriginal and Torres Strait Islander women had access to adequate health and social services.

**Positive Developments:**

20.4 The development of the National Strategic Framework for Rural and Remote Health (2012) to guide the planning, design, funding and delivery of quality health care in rural and regional areas. However, the lack of gender analysis and failure to mention the 2010 National Women’s Health Policy as a related document is of concern.

20.5 Renewed funding (until June 2015) to the Rural Women’s GP Service, which funds the travel of female GPs to eligible communities to conduct general practice clinics.
Remaining Challenges:

20.6 There remains a lack of adequate access to sexual assault services for rural and remote women. As a result, sexual assault victims are often required to travel long distances for a forensic examination before they can shower, brush their teeth or change their clothes. These factors discourage victims of sexual assault in these regions from participating in the forensic process, which has implications for charge and conviction rates for sexual assault.

20.7 More than half of Australia’s rural maternity units have closed over the last 15 years, with safety, cost and workforce shortages the main drivers. Young families are bearing the brunt of the serious deterioration in the capacity of the national maternity service system in rural and remote areas. During a consultation by Women’s Legal Services NSW in 2011 with Aboriginal and Torres Strait Islander women in Bourke in western NSW, the women said they were required to travel around 370 kilometres away to Dubbo two weeks before their due date so they could access maternity care. There is a need for safe and accessible maternity care in rural and remote communities, which includes care before and after the birth of the baby as well as obstetric care, particularly for teenage mothers.

20.8 Women living with breast cancer in rural and regional Australia face many challenges as a result of their geographical isolation. Specialist health services, medical facilities and expertise are often concentrated in cities and larger regional centres, making it difficult for women in rural and remote areas to access a full range of treatment options. Travel to metropolitan or larger regional centres for treatment and follow up care can be a significant financial and emotional burden on the women and their families concerned.

Recommendations:

We recommend that the Australian Government and all State and Territory Governments:

20.9 Provide adequate funding and resources for initiatives that increase rural women’s access to affordable physical and mental healthcare.
Article 13
Economic, social and cultural rights

Article 13 of CEDAW refers to Australia’s obligation to eliminate discrimination against women in all areas of economic, social and cultural life.

Key Issue 21: Shortage of affordable housing for single older women

Background:
21.1 Australia is experiencing significant issues regarding affordable housing, with 18% of Australian households experiencing housing stress.172 Housing stress is defined as the number of Australian households whose housing costs are greater than 30% of income. According to ABS data, 25% of lower income households face housing costs which are greater than 30% of gross income earned.173

Single, older women in Australia have emerged as a group who are highly vulnerable to housing affordability stress. This is a result of societal changes over the past century, which have resulted in increased financial and personal independence for women, the decline of the nuclear family, and an increasing lifespan, which have led to an increased demand for affordable housing for single older women. These factors, when combined with the gender pay gap (see page xx) and an overall reduction in affordable housing (including public housing stock) have placed older women at increased risk of homelessness.174

Positive Developments:
21.2 The release of the National Homelessness Research Agenda 2009–2013, including establishment of Journeys Home: Longitudinal Study of Factors Affecting Housing Stability, which aims to improve the understanding of, and policy response to, the diverse social, economic and personal factors related to homelessness and the risk of becoming homeless.

Remaining Challenges:
21.3 The number of women in Australia who are single, older and at risk of homelessness is increasing. According to the 2011 Census, there were approximately 61% more single older women on low incomes than there were men (600,828 women to 373,794 men),175 with estimates suggesting that 15% of these women are currently experiencing housing stress.176 This leaves a further 510,000 single older women who are at high risk of experiencing housing stress and homelessness in the next 25 years. The fact that older women are much more likely than men to have no superannuation coverage at the age of retirement is also a significant risk factor to homelessness.177

2010/2012 CEDAW Committee Consideration:
None.
21.4 This increased vulnerability is not always reflected in housing affordability data, as definitions of housing affordability and stress often do not reflect the unique experiences of women. For example, women are more likely to have additional financial pressures in other areas of their lives (often related to caring responsibilities), remain in unsafe relationships because they have no alternative accommodation or be forced to live in high-cost areas to maintain connections with schools and childcare. Furthermore, the way that homelessness is measured in Australia does not reflect the realities of older women’s lives, for example, they are more likely to be staying in insecure or unsafe accommodation and less likely to report being homeless, which means they are not prioritised for services and other support.

**Recommendations:**

We recommend that the Australian Government:

21.5 Work with the Australian Bureau of Statistics to develop a gender sensitive methodology for measuring homelessness in Australia, which accurately reflects older women’s unique experiences of housing stress.

21.6 In light of the decision not to proceed with the final round of the National Rental Affordability Scheme (NRAS), that the Government implement a rental affordability program to increase the supply of affordable housing by attracting private investment to the affordable rental market. Within such a scheme, the provision of housing that meets the needs of older women should be a priority.

21.7 Ensure that new social housing and affordable housing stock meets the needs of single older women, for example, by offering incentives for the construction of accessible, single bedroom dwellings that allow supportive clusters of older people to live independently in close proximity to each other.

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Inequality Intersects

Information in this part of the report is related to:

**Key Issue 18:** The gender pay and superannuation gap
**Key Issue 22: Changes to income support payments and its impact on single mothers**

**Background:**
22.1 Within Australia’s income support system, the Parenting Payment (PP) is the main income support payment for parents with principal care of a young child. The payment is divided into two streams: Parenting Payment Partnered (PPP) and Parenting Payment Single (PPS). Approximately 90% of those who receive the PPS are women. In 2006, the Australian Government introduced reforms that required new recipients applying for PP to have principal care of a qualifying child aged less than six years for partnered recipients, and less than eight years for single recipients. However, parents who had been in receipt of payment before 1 July 2006 (comprising one third of PP recipients) were ‘grandfathered’ on their pre-2006 conditions and were allowed to remain on payment until their youngest child turned 16.

22.2 In 2012, the Australian Government introduced the Social Security Legislation Amendment (Fair Incentives to Work) Act 2012 (Cth). The core purpose of the Act was to remove these grandfathering provisions, requiring PP recipients with children over the qualifying age to transition to Newstart (an income support payment for jobseekers). These changes had an immediate impact on around 85,000 PP recipients (as their children were already over the qualifying age) and will eventually affect all 147,000 grandfathered PP recipients. It was estimated that, as a result of transitioning to NewStart (which is paid at a lower rate), affected parents would receive a reduction of up to $140 per fortnight in income support.

2010/2012 CEDAW Committee Consideration:
None.

**Positive Developments:**
22.3 In response to advocacy from civil society groups, changes were made to Newstart ‘taper rates’ for sole principal carers (including single parents who had been moved to Newstart from PPS), which meant that they were able to earn slightly more before their payment was reduced. However it should be noted that the amount and conditions of Newstart remain unsuitable for single parents.

**Remaining Challenges:**
22.4 Led by the Australian Council of Social Service (ACOSS) and in consultation with the National Council of Single Mothers and their Children and 13 other agencies, on 15 June 2012 ACOSS wrote to the Joint Parliamentary Committee on Human Rights seeking an inquiry under section 7 of the Human Rights (Parliamentary Scrutiny) Act 2011 into the Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012. In its interim report, the Committee stated that it was not convinced that those affected by the proposed legislation would be able to maintain an adequate standard of living and that consequently the measures risked being in violation of Australia’s international human rights obligations. Despite its recommendation that the Government defer these measures until the outcome of a related Senate inquiry into the adequacy of NewStart was completed, the Social Security Legislation Amendment (Fair Incentives to Work) Bill was passed in October 2012.

22.5 In response to a complaint by ACOSS and other welfare groups, the UN Special Rapporteur on Extreme Poverty and Human Rights wrote to the Australian Government and noted that the decision to transfer individuals from parenting payments to NewStart may be incompatible with Australia’s international human rights obligations (including the right to social security, the right to an adequate standard of living and the right to non-discrimination). At the time of writing, the government had not formally responded to this letter.
In its 2014–2015 Budget, the Australian Government proposed a number of changes to income support for Australian families, which will result in a further reduction in payments to the majority of single mothers. If these changes are passed, families will no longer be eligible for Family Tax Benefit (Part B) once their oldest child turns six (previously 15). To compensate for these changes, some single parents will receive a one off annual payment of $750 per child (equating to $14 per week), however it has been estimated that even after this payment, most single parents will still lose between $37–$58 per week in income support.

Despite being one of the wealthiest countries in the world, Australia has the 5th highest rate of poverty among sole parent families in the OECD, currently at 25%. Half of all Australian children living in poverty are in sole parent households (286,000 children) and most of these are headed by women. These changes to Australia’s income support system directly contribute to rates of child poverty and have a profound and disproportionately negative impact on women, who comprise the majority of single parents.

Recommendations:
We recommend that the Australian Government:

22.8 Amend the Social Security Act 1991 (Cth) to:

• Ensure that single parents do not transition from PPS to NewStart until their youngest child turns 14 (instead of 8); and
• Freeze taper rates for single parents being transitioned from PPS to Newstart so that they able to maintain the same level of earnings before their payment is reduced.

22.9 Respond to the October 2012 letter by the UN Special Rapporteur on Extreme Poverty and Human Rights regarding the Social Security Legislation Amendment (Fair Incentives to Work) Act 2012 (Cth).

22.10 Initiate a broader reform of Australia’s family payment system, with a focus on alleviating child poverty and supporting sole parents.

This issue is more likely to negatively impact:

Single mothers
Young women

Inequality Intersects
Information in this part of the report is related to:

Key Issue 17: The cost and quality of childcare
Article 14
Rural women

Article 14 of CEDAW refers to Australia’s obligation to take into account the specific needs of women living in rural areas.

Key Issue 23: The critical role of women in disaster preparedness and response

Background:
23.1 The impacts of disaster are not gender neutral, instead, the way people prepare for, respond to and recover from disasters is shaped by physical and socio-economic dimensions of being female or male.\(^{185}\) Despite this, little is known about the role of women and their unique experiences in disaster preparedness and response in the Australian context. Despite their invisibility at an institutional level, women play a critical role in disaster preparedness and response in their homes and communities, including shouldering most of the responsibility for preparing the family and home and emotionally supporting community members in the event of a natural disaster. A better understanding of the gendered nature of disasters is crucial to building Australia’s disaster resilience.

2010/2012 CEDAW Committee Consideration:
None.

Positive Developments:
23.2 The publication of a special ‘Gender Edition’ of the Australian Journal of Emergency Management in April 2013, which contributed to the knowledge base on the gendered nature of disasters and emergencies. It is recommended that this become an annual fixture of the Journal.

23.3 Provision of funding to the National Rural Women’s Coalition (one of the six National Women’s Alliances) to produce the Weather the Storm kit to support women in rural and regional areas to prepare for disasters and emergencies.

Remaining Challenges:
23.4 Despite intermittent attempts to recruit more female staff and volunteers, the emergency services sector in Australia remains undeniably male-dominated. Women are typically underrepresented across all of Australia’s emergency services agencies, this is particularly the case in leadership and decision making roles.\(^{186}\) Research into rural fire services has shown that women make up less than a quarter of all rural fire volunteers in Australia and that many are placed in non-operational or supportive and administrative roles. Even into the early 2000s, some rural fire brigades did not admit female members.\(^{187}\) Sporadic attempts have been made to try and rectify this gender imbalance, namely by recruiting more women into rural, volunteer fire fighting and implementing a small number of disaster preparedness programs that specifically target women. However, attempts have not succeeded in transforming the broader masculinised nature of the emergency services sector.\(^{188}\)

23.5 There remains a lack of knowledge about women’s unique experiences of natural disasters. For example, despite a significant global body of evidence that demonstrates a correlation between natural disasters and incidences of domestic violence and sexual assault, this relationship is largely unexamined in the Australian context. This lack of knowledge was brought into the forefront after the Black Saturday bushfires in 2009, when no reliable statistics were
available to document the effect of the disaster on rates of domestic violence. A qualitative study undertaken in the wake of the disaster demonstrated that, not only was there a significant increase in domestic violence, but women’s experiences were often sidelined by community members, police and psychologists, many of whom perceived men to be the ‘real heroes’ of the incident.

23.6 Improvements need to be made to the way that gender is mainstreamed into emergency management policy and planning documents. A scan in November 2012 of Australian national, State and Territory government emergency recovery policy and planning documents showed that nine out of the 12 documents reviewed made no mention of gender. Where gender was mentioned, it was generally identified as an overarching factor without further analysis or strategy development. In comparison, the majority of emergency management policy documents scanned mentioned children, the elderly, Aboriginal and Torres Strait Islanders, people from culturally and linguistically diverse backgrounds and people with a disability. As a result there is limited identification of the differential needs and contributions of women and men in Australian emergency management policies, as well as reliably targeted resources to address gender inequalities and respond to gender differences or capitalise on women’s strengths.

**Recommendations:**
We recommend that the Australian Government:

23.7 Build the knowledge base on the critical role of women in disasters by investing in further research into the gendered nature in disaster preparedness and response (including the relationship between domestic violence, sexual assault and disasters).

23.8 Work collaboratively with State and Territory counterparts to ensure that domestic violence is included as a priority issue in all aspects of disaster management planning. Strategies must include, but are not limited to: the involvement of domestic violence services in disaster planning activities, the collection of accurate domestic violence statistics immediately following a disaster, providing compulsory domestic violence training to first responders and ensuring that community organisations are adequately resourced to rapidly respond to the known increase in domestic violence in the wake of natural disasters.

23.9 Work collaboratively with State and Territory counterparts to implement strategies to increase the number of women staff and volunteers working in emergency services (e.g. State Emergency Service, Urban and Rural Fire Brigades), with a focus on increasing the number of women in leadership and decision making positions.

Inequality Intersects
Information in this part of the report is related to:

- **Key Issue 9:** The participation of women in public decision-making
- **Key Issue 20:** Accessibility, affordability and availability of health services in rural areas
Key Issue 24: Rural women’s access to information and communication technology (ICT)

Background:

24.1 The quality, coverage and usage of ICTs is a critical issue for Australian society, especially given that it has one of the lowest population densities outside urban areas of any country in the world. This is likely to increase as ICTs increasingly form the basis of most of our economic and social activity and become the primary vehicle for promoting development and growth in the global economy. Research demonstrates that ICTs have positive benefits, including building social inclusion, enhanced employment outcomes, access to education and better engagement with government services.

Poor access to ICTs has a clear detrimental economic and social impact, resulting in what is often referred to as the ‘digital divide’.

24.2 People living in regional, rural and remote areas experience greater barriers to using ICT than those in urban areas, including access issues, a lack of knowledge of technology, and higher costs. Research shows that those living in regional and remote areas are at least 40% less likely to have Broadband access relative to major cities, with access decreasing with remoteness.

The use of ICT among Aboriginal and Torres Strait Islander Australians is much lower than non-Indigenous Australians, with research showing that 38% of Aboriginal and Torres Strait Islander Australians did not access the Internet in 2008-09, compared to 26% of non-Indigenous Australians.

2010/2012 CEDAW Committee Consideration:

None.

Positive Developments:

24.3 Expanding access to the National Broadband Network (NBN) to more than 2,700 farms, homes and businesses in rural and remote parts of the Northern Territory. A continued focus on expanding the NBN to rural and remote Australia will be necessary to bridge the current digital divide.

24.4 The introduction of Australian Government eHealth records (launched in June 2012) that provide patients with a secure online summary of their own health information.

Remaining Challenges:

24.5 A number of recent innovations in the use of ICTs demonstrate their potential to improve the health and wellbeing of people living in rural areas. Examples include:

- eHealth initiatives that enable the delivery of health care information and services using information and communications technology, such as clinical communications between healthcare providers; patient access to specialist services and professionals’ access to information databases and decision support tools using a range of online tools and resources;

- Telehealth services, such as video-conferencing, that deliver health services into remote communities, improving practitioners’ ability to provide accurate diagnosis and help educate, train and support remote healthcare workers on location; and

- Mobile ‘apps’ that encourage people to participate in screening programs or seek professional advice about health conditions, assist people to manage their health and fitness and provide healthcare professionals with information about clinical matters and procedures.
ICTs are also allowing more and more rural Australians to pursue an education by distance, with many Australian universities offering courses by distance, using online webinars to offer real time lectures and tutorials to students off-campus. However these opportunities are only available in areas where sufficiently high-speed internet access exists.

**Recommendations:**
We recommend that the Australian Government:

24.7 Continue to provide funding and resources to innovative projects that use ICTs to increase social, education and economic opportunities for rural women, such as the National Rural Women’s Network (NRWN) A Cuppa With™ Webinar and e-Networking Series, which provides rural women with access to education and networking opportunities.
Whether they have come to Australia as a student, working professional, partner, family member, or as a refugee or asylum seeker, the journeys and experiences of immigrant and refugee women are as diverse and complex as the countries and cultures from which they arrive. In the process of migration and settlement, many women have shared experiences of upheaval, racism, disrupted education and careers, language and cultural barriers and social isolation. This makes them immensely vulnerable to poor physical and mental health, discrimination, violence and exploitation among other human rights abuses.

One of the most fundamental principles of human rights is that they are not earned or awarded, but that they are inherent to us all as human beings. Sadly this is not the experience of many immigrant and refugee women, whose human rights are dictated by their visa and their position in a complex system of immigration regulations that can see their human rights taken away with little notice and without recourse to justice.

Key themes that emerged during consultations with immigrant and refugee women and those who support them included:

**Immigration Regulations**

Australia’s system of immigration visas is complex and consists of a large number of different types of temporary visas (e.g. student, tourist, skilled worker), permanent visas and a range of ‘bridging visas’ which allow people to remain in Australia while they transition from one visa to another. Each of these visas comes with its own unique terms and conditions, often linked to basic rights such as social security, access to justice, healthcare and services. There are also a number of people who arrive (or stay) in Australia with no visa, many of whom are seeking asylum from another country.

While this system was no doubt designed to respond to a ‘typical’ journey of immigration, women’s experiences of immigration are often atypical. For example, a woman may arrive initially as a tourist, then stay on as a student, then be sponsored by an employer who requires their skills and then enter a relationship with a citizen and decide to remain permanently in Australia. As a result, immigrant and refugee women’s access to their human rights is constantly changing. At worst, they may be left unable to claim their most basic human rights (such as healthcare and equality before the law) and receive little or no support.

**Employment and Training**

Even though many women arrive in Australia with much needed skills and qualifications, they often experience difficulty getting these qualifications recognised by Australian institutions. Furthermore, restrictions on their rights to seek employment and racism and discrimination (both subtle and overt) means that immigrant women lack access to employment and training opportunities or are forced to accept work that is well beneath their true capability.

As a result, immigrant and refugee women have lower incomes and experience further stigma and discrimination, being perceived by some as unproductive, unwilling or incapable of working.

When immigrant women do find employment they are particularly vulnerable to exploitation. In some cases this is even enabled by Government policies. For example, poor regulation of Australia’s vocational education system resulted in a number of illegitimate ‘colleges’ offering poor quality courses marketed at international students. Women who participated in consultations also raised concerns that a recent Government proposal to subsidise nannies to provide in home childcare could result in the exploitation of immigrant women.
Access to Justice

Immigrant and refugee women face a range of additional barriers in accessing justice in the legal system. This includes limited knowledge of the Australian legal system, restricted access to affordable legal representation and poor access to interpreters needed to meaningfully participate in legal proceedings. Gender discrimination against immigrant and refugee women is also embedded in many laws and policies. For example, women who are migrating to Australia as spouses are offered inadequate protection under the law, particularly in the case of family violence (see page xx for more information on this issue).

Australia's immigration system is at its most punitive when it comes to assessing claims by unauthorised migrants; many of whom are seeking asylum in Australia. A number of recent high profile media cases regarding the treatment of asylum seekers in Australian offshore detention centres have highlighted the Government’s unwillingness to comply with international human rights obligations. Immigrant and refugee women’s access to justice is further compromised by the Australian Government’s increasing preference to outsource their responsibilities to private companies. This was demonstrated in recent riots at Australian immigration detention centres on Manus Island and Nauru where security firms failed to protect asylum seekers under Australia’s care.

Violence and Abuse

It is widely accepted that immigrant and refugee women are highly vulnerable to domestic and family violence. This is due to a number of factors, including lack of awareness of their human rights, poor access to health and social services and exposure to patriarchal cultural practices that justify and enable violence. Women who participated in consultations also pointed out that Australian Government systems and institutions, such as the immigration system, perpetuate structural violence against immigrant and refugee women.

Many women affected by domestic and family violence experience shame and fear, which prevent them reporting violence abuse. For immigrant and refugee women, the situation is often more complex. For these women, disclosure and help seeking can be complicated by factors relating to culture, religion, visa status, language, past refugee experiences, current settlement experiences, a lack of access to appropriate services and an absence of family or friends for support.
KEY ISSUE 25: Lack of protection for vulnerable witnesses in family violence cases

**Background:**
25.1 The extent of domestic and family violence in family law cases is significant. For example, the Australian Institute of Family Studies identified that over half of the family law files they examined contained allegations of family violence. It is also well recognised that some violent and controlling perpetrators will use litigation against their former partners as a way to continue to control and/or punish them after separation. There are currently no specific provisions in the family law jurisdiction that prevent perpetrators of violence, who act for themselves without a lawyer, from directly cross-examining the victim/survivor of violence. The lack of such protections can act as a barrier to accessing justice for the most disadvantaged and vulnerable in the community. Noting the gendered nature of domestic and family violence, it can also lead to poorer outcomes for women and children. Direct cross-examination by an alleged abuser has a devastating impact and can lead to some women choosing to settle their family law matters on less than satisfactory terms to avoid the trauma of being cross-examined by a violent ex-partner.

**Positive Developments:**
25.2 The 2011 amendments to the Family Law Act 1975 (Cth) (which came into effect on 7 June 2012), which broadened the definition of family violence and prioritised the safety of children over a meaningful relationship with both of their parents when considering what is in a child’s best interests in parenting matters.

**Remaining Challenges:**
25.3 There are currently no specific provisions in the family law jurisdiction that prevent unrepresented alleged perpetrators of violence from directly cross-examining the victim/survivor of their violence. This remains the case in spite of the fact that legislation protecting vulnerable witnesses from direct cross-examination by the alleged perpetrator in sexual offence trials (a criminal jurisdiction) has been passed in every State and Territory jurisdiction within Australia. Additionally, in five of the eight State and Territory jurisdictions, specific protections are also included in legislation to prevent a vulnerable witness from being directly cross-examined by an unrepresented alleged perpetrator of violence with respect to proceedings about domestic and family violence protection orders (a civil jurisdiction). These protections are intended to prevent the victim/survivor from being retraumatised by interacting with their perpetrator as well as removing the opportunity for some perpetrators to further exert subtle threats and coercion in a way that may not be detected by the judiciary, but has a specific and direct impact on the ability of the witness to provide evidence.
Recommendations:
We recommend that the Australian Government:

25.4 Amend the Family Law Act 1975 (Cth) to provide protection to victims/survivors of domestic and/or family violence from being directly cross-examined by an alleged perpetrator of violence, such as by allowing the court to appoint a suitable person to ask questions on behalf of the alleged perpetrator.

25.5 Develop through consultation with anti-family violence specialists, an eligibility criteria set for grants of legal aid in family law where the applicant is a victim of family violence, including clear criteria for the funding of specialist family violence reports to support decision-making by courts around issues of violence.

And that State and Territory Governments, where they have not already done so:

25.6 Introduce legislative protections to prevent vulnerable witnesses from being directly cross-examined by an alleged perpetrator of violence in domestic and family violence protection order matters.

Inequality Intersects
Information in this part of the report is related to:

Key Issue 26: The impact of gender bias in the provision of legal aid page xx
Key Issue 30: The Australian legal system’s response to family violence page xx
Key Issue 26: The impact of gender bias in the provision of legal aid

Background:
26.1 Legal aid is Australia’s system of publically funded legal support, which is designed to ensure access to legal advice and representation for those who may otherwise not be able to afford it. Legal aid services for women in Australia include government Legal Aid Commissions (LACs), Community Legal Centres (CLCs), Aboriginal and Torres Strait Islander Legal Services (ATSILS) and Family Violence Prevention Legal Services (FVPLS). Some of these legal assistance services provide specialist women’s legal services and others provide services for both women and men. While on the surface, the provision of legal aid may appear to be gender neutral, the reality is, gender bias exists and prevents the system from achieving substantive equality for women. This is largely due to a failure of the system to respond to the different legal needs of women and men.

2010/2012 CEDAW Committee Consideration:
26.2 In its 2010 concluding observations, the CEDAW Committee raised particular concerns regarding Aboriginal and Torres Strait Islander women’s access to human rights in all sectors, including legal literacy and access to justice.

Positive Developments:
26.3 The recent one-off grants totaling $1.55 million to 14 CLCs to support frontline services and projects and to the National Association of Community Legal Centres to support approximately 200 Centres across Australia to provide effective and responsive services. However, we note that these grants do not negate the effect of prior substantial funding cuts and do not represent a net increase in funding to CLCs.

Remaining Challenges:
26.4 In December 2013 the new Commonwealth Government announced a funding cut of $43.1 million for legal assistance services over four years from 2013–14. Since then, further funding cuts have been announced to legal assistance services generally, as well as in relation to specific programs. These funding cuts have threatened the sustainability of several specialist women’s legal services, including Aboriginal women’s legal services. The existence of specialist legal services for women is vital in empowering and supporting women to claim their legal rights. These services ensure women can exercise agency, by providing them with a choice of legal assistance services. Staff of these services also have a thorough understanding of the nature and dynamics of domestic and family violence and are able to recognise intersecting and compounding forms of disadvantage and enact appropriate strategies in women’s best interests.

26.5 In determining allocation of funding for legal assistance services, criminal matters are prioritised. This systematically disadvantages women, as men are more likely to be charged with an offence that could likely result in imprisonment and are therefore more likely than women to seek assistance in criminal law matters. For example, a recent study found 75% of the highest users of Legal Aid in NSW were men and all participants in the study had accessed criminal law services. On the other hand, women are more likely to require assistance in relation to being a victim/survivor of domestic and family violence, particularly in the family law system and/or civil law system. Australia’s Productivity Commission has recommended that there should be separate funding for civil and family law matters in addition to adequate funding for criminal law matters.
Gender bias is also evident in the application of legal aid family law policies and guidelines. For example, some legal assistance services have reported cases of legal aid grants being terminated if a party does not agree with the recommendations made by a family report writer who has been appointed to comment on the care, welfare and development of a child in a family law matter. This is particularly concerning given that there are no minimum standards or mandatory training for family report writers in relation to their knowledge and understanding of the nature and dynamics of family violence, which can impact on the conclusions they reach in their reports.

**Recommendations:**

We recommend that the Australian Government:

**26.7** Increase funding of legal assistance services, including specialist women’s legal services, to an adequate and sustainable level and provide separate and additional funding for civil and family law matters as recommended by the Productivity Commission.

**26.8** Develop, with advice from domestic and family violence experts and in consultation with civil society organisations, a specialised domestic and family violence funding pathway for Legal Aid Commissions to guide internal decision-making regarding the merit of legal aid applications in relation to applicants who have been subjected to domestic and family violence.

**26.9** Resource the ongoing training of judicial officers, legal practitioners, family report writers, court staff and police in the nature and dynamics of domestic and family violence and trauma-informed practice.

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This issue is more likely to negatively impact:

Aboriginal and Torres Strait Islander women
Single mothers
Women on low incomes
Survivors of violence

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**Inequality Intersects**

Information in this part of the report is related to:

**Key Issue 3:** Reduced funding and support for women specific services  
Key Issue 10: The capacity of NGOs to engage in advocacy work  
Key Issue 30: The Australian legal system’s response to family violence  

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2014 CEDAW SHADOW REPORT | 77
Article 16
Equality in marriage and family relationships

Article 16 of CEDAW refers to Australia’s obligation to afford women full equality in all matters relating to marriage and family relations.

Key Issue 27: Lack of political support for marriage equality (same-sex marriage)

Background:
27.1 There is significant public support for marriage equality in Australia. Polls show about 64% of Australians support marriage equality, rising to 81% for young Australians (aged 18-24).209 Furthermore, surveys show 80% of same-sex partners support the right to marry and 55% would marry if they could.210 The Australian Government’s failure to amend legislation and allow same-sex marriages perpetuates the discrimination and stigma faced by lesbian couples on the grounds of their gender and sexual orientation.

27.2 As many as 33% of lesbians in Australia are already raising children.211 Research consistently shows that despite facing significant discrimination, children with lesbian or gay parents are comparable with children with heterosexual parents on key psychosocial developmental outcomes and do not exhibit higher rates of psychological disorders than children from heterosexual families.212 Allowing parents in these families the right to marry will provide their children with the same rights, respect and recognition as other children.

2010/2012 CEDAW Committee Consideration:
None.
Positive Developments:

27.3 The 43rd Parliament saw an increased focus on the subject of same-sex marriage including the introduction of three Bills designed to amend the *Marriage Act 1961* (Cth) in order to allow people the right to marry, irrespective of their sex. The Bills, if enacted, would have also removed the prohibition on the recognition of marriage between same-sex couples solemnised in a foreign country. These Bills were the subject of two parliamentary committee inquiries, but were not passed by the Parliament.

Remaining Challenges:

27.4 *Australia’s Marriage Act 1961* (Cth) specifically excludes the recognition of same-sex marriages. This legislation has been used to overturn the legalisation of same-sex marriages in Australia’s States and Territories. For example, in October 2013 the Australian Capital Territory (ACT) introduced the *Marriage Equality (Same Sex) Act 2013*, which was subsequently voided by a legal challenge to the High Court of Australia. The High Court determined that the Federal Parliament has the power under the Australian Constitution to legislate on same-sex marriage, and that whether or not same-sex marriages are legalised is a matter for the Federal Parliament.

Recommendations:

27.5 The Australian Government commit to working with State and Territory governments towards a nationally consistent approach to relationship recognition that includes same-sex couples.

Inequality Intersects

Information in this part of the report is related to:

**Key Issue 2: Failure to adopt a National Human Rights Act**
**Key Issue 28: The impact of early and forced marriage on women and girls**

**Background:**

28.1 It is only in recent years that the issue of early and forced marriage in Australia has come to the attention of law and policy makers. Consequently there is a lack of data on the nature and scope of the issue in a domestic context. Since the criminalisation of early and forced marriage on 8 March 2013, the Australian Federal Police has received ten referrals for suspected forced marriage matters, 9 of which were minors, although the problem is likely to be much greater. Like other forms of violence against women, gender inequality is both a cause and a consequence of early and forced marriage. Therefore, while boys and men can be victims of early and forced marriage, women and girls are affected by this problem to a far greater degree.

**2010/2012 CEDAW Committee Consideration:**

28.2 See paragraph 7.3 for the CEDAW Committee’s 2010 concluding observations on Australia’s response to human trafficking and slavery.

**Positive Developments:**

28.3 In February 2013, the Australian Parliament passed the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013*, which amended the *Commonwealth Criminal Code Act 1995* (the ‘*Criminal Code*’). As a result of these amendments, causing a person to enter a forced marriage and/or being a party to a forced marriage are now criminal offences punishable by imprisonment.

28.4 The establishment of the National Roundtable on Human Trafficking and Slavery, Communications and Awareness Working Group, to develop, test and evaluate multi-lingual materials for the Australian community including a forced marriage safety plan, media fact sheet, and materials for awareness raising in the community including postcards and booklets.

28.5 The provision of funding to several community based organisations to raise awareness and provide support to victims of forced marriage, including:

- Anti-Slavery Australia to expand a national legal service to people facing forced marriage and to establish a dedicated forced marriage website containing best practice guidelines, and targeted information for people facing forced marriage, community agencies, front-line officials and referral bodies.
- Australian Catholic Religious Against Trafficking in Humans (ACRATH) to develop teaching materials on forced marriage and to facilitate teacher training about forced marriage.
- Australian Muslim Women’s Centre for Human Rights (AMWCHR) for the development of an educational program to boost the capacity of community organisations working with women and families facing forced marriage.
Remaining Challenges:

28.6 In Australia, forced marriage is considered to be a slavery-like practice and is therefore encompassed by Australia’s strategy to combat serious forms of exploitation, including human trafficking, slavery, and other slavery-like practices. The Australian Government provides access to the Support for Trafficked People Program to any person identified as a potential victim of forced marriage. However, support beyond an initial period of respite is contingent on engagement in the criminal justice system. In the complex area of early and forced marriage, it may be difficult for vulnerable people to fully engage in the criminal justice process, as to do so would in all likelihood require the provision of evidence against family members. There is a need to provide support and resources beyond the existing national framework, particularly where the person affected is a minor, which will require coordination between Federal and State authorities.

28.7 While Australia has criminalised the practice of forced marriage, legislation is just one part of a meaningful response. Other strategies include effective and widespread community engagement, sound research to understand the dimensions of early and forced marriage and the development of best practice approaches to addressing early and forced marriage in specific communities.\(^\text{27}\) Prevention, identification and support of those facing early and forced marriage requires training of frontline officers including in the area of law enforcement, child protection, family violence, health and education to strengthen community responses.

Recommendations:

We recommend that the Australian Government:

28.8 Prioritise research into the prevalence of early and forced marriage in Australia to inform best practice strategies to prevent and address the issue in high risk communities.

28.9 Work collaboratively with State and Territory counterparts to coordinate Federal, State and Territory government responses to early and forced marriage.

28.10 Continue to provide funding for community-based organisations to raise community awareness, develop materials and undertake community engagement on the issue of early and forced marriage.

28.11 Provide training to frontline government employees (including immigration and child protection workers), law enforcement officers and community organisations working in the family violence, health and education sectors to identify and respond to early and forced marriage.

This issue is more likely to negatively impact: Immigrant and refugee women

Inequality Intersects

Information in this part of the report is related to:

Key Issue 7: Improving the legal response and support available to trafficked women
Violence against women

This section of the report refers to Australia’s observation and implementation of General Recommendation 19 on the elimination of violence against women.

Key Issue 29: Implementation of the National Plan to Reduce Violence Against Women and their Children 2010–2022

Background:
29.1 Violence against women continues to be a serious and pervasive problem in Australia. Recent data shows that there has been no significant decrease in the prevalence of violence against women and that in some cases, rates of violence against women are increasing. Recent Australian Bureau of Statistics data shows that 1 in 6 women have experienced emotional abuse by a current or former partner and 1 in 5 women had experienced physical or sexual abuse by a current or former partner since the age of 15. Recent data from the NSW Bureau of Crime Statistics and Research showed a 2.5% increase in rates of domestic violence in the first quarter of 2014, with rates of violence in some rural and regional communities up to 11 times higher than in urban centres.

29.2 In February 2011, the Australian Government launched its National Plan to Reduce Violence against Women and their Children 2010–2022 (National Plan). The National Plan brings together the efforts of Australian State, Territory and Commonwealth Governments to make a real and sustained reduction in the levels of violence against women. The National Plan will be implemented through a series of four, three-year action plans, the first of which was launched in 2011 and the second of which was released in 2014. In launching the National Plan, the Coalition of Australian Governments (COAG) was also successful in gaining commitment from States and Territories to develop their own Plans, however progress on this has been slow.

2010/2012 CEDAW Committee Consideration:
29.3 In its 2010 concluding observations, the CEDAW Committee welcomed plans to develop the National Action Plan and urged Australia to establish a mechanism for its independent monitoring. It was also requested that Australia provide, in a follow-up letter to the Committee, further information regarding the prevalence and scope of domestic violence in Australia, the sanctions imposed on perpetrators and the support provided to survivors.

29.4 Upon considering the further information provided by Australia in its follow up letter (received on 22 November 2012), the CEDAW Committee concluded that while it was satisfied that the National Plan had been publically launched, it believed that more needed to be done to ensure that the Plan reached service providers on the ground, particularly in regional, rural and remote communities.

29.5 The Committee also noted measures to ensure the independent monitoring of the National Plan through the establishment of the National Plan Implementation Panel (NPIP). The Committee asked that, in its next periodic report, Australia provide additional information on progress made in establishing an independent multi-sectoral mechanism to monitor the implementation of the National Plan.
Positive Developments:

29.6 The release of the Second Action Plan of the National Plan to Reduce Violence against Women and their Children 2010–2022 (2013–2016), which specifically targets high risk communities including Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women and women with a disability.

29.7 The provision of core funding to three organisations that contribute to the implementation of the National Plan:

- Our Watch to raise awareness and engage the community in action to prevent violence against women and for the development of a national framework for the primary prevention of violence against women;
- Australia’s National Research Organisation for Women’s Safety (ANROWS) to provide an evidence base for improving knowledge about effective strategies, policies, programs and services to end violence against women and their children;
- 1800RESPECT to provide online and telephone counselling services for any person who has experienced or is at risk of sexual assault and/or family and domestic violence, and their family and friends; and
- The Australian Women Against Violence Alliance (AWAVA) to provide a strong framework for communication and collaboration between Government agencies and the civil sector.

29.8 The June 2014 release of the National Plan Evaluation Plan, which outlines a framework for the evaluation of the National Plan, including each three-year action plan, annual progress reporting, flagship activities, and analysis of data available to measure women’s safety. It is unfortunate that the invitation to comment on the Evaluation Plan was not inclusive of a broader spectrum of stakeholders. It is important that a collaborative approach in which all key stakeholders will be able to contribute as proposed in the Evaluation Plan occurs in practice.

Remaining Challenges:

29.9 While the release of the National Plan paved the way for a coordinated and evidence based approach to preventing and responding to violence against women and their children across State and Territory jurisdictions, feedback from the civil society sector indicates that there has been a lack of timely consultation and implementation on some of the National Plan’s initiatives. These include communicating timelines for the publication and delivery of the National Research Agenda, the publication and delivery of the National Data Reporting Framework, the delivery of National Standards for online and telephone counselling services and the delivery of working with GPs and effective risk assessment across the health sector.
Furthermore, the National Plan’s focus on awareness raising endeavors and attitudinal and behavioural change, whilst vital, is insufficient to effectively address violence against women and children. In addition to awareness raising programs and attitudinal behavioural change, adequate and sustainable funding is required for specialist women’s services that operate at the ‘front line’ of the response to violence against women (see page xx for more information on this issue). This is particularly important given the fact that improvements in community awareness about domestic and family violence and sexual assault are likely to lead to an increase in reporting and therefore an increased demand on these services. As such, it is vital that funding target programs that deliver multiple, mutually reinforcing strategies across individual, community and societal levels.

The implementation of the National Plan has been hindered by a lack of effective communication between the State, Territory and Commonwealth Governments and civil society, including inadequate mechanisms for participation and insufficient action on independent monitoring mechanisms. For example, the National Plan Implementation Panel (NPIP) NGO representatives were initially required to sign confidentiality agreements significantly impacting on their ability to share information with civil society. While through their advocacy these confidentiality agreements were lifted, the Government has been very slow to release official summaries of these meetings. Notably, there is no reference to NPIP in the Second Action Plan. The mechanisms for civil society engagement have not been finalized in the Second Action Plan. The First Action Plan also discussed the formation of Advisory Groups on which NGOs would be represented according to their expertise in primary prevention, service delivery, justice responses and building the evidence base. These Advisory Groups are yet to be established.

Recommendations:
We recommend that the Australian Government:

29.12 Address the need for improved communication between government and civil society about the National Plan and additional mechanisms for participation, engagement and advice from civil society to fill the gap left by the dissolution of the NPIP and the failure to establish Advisory Groups.

29.13 Ensure there is an independent mechanism to operationalise the Evaluation Plan, which will monitor and evaluate the implementation of the National Plan and adequate funding of civil society to engage in this process.

29.14 Proactively build the capacity of specialist women’s services as demand for services rises, including for their response, early intervention and prevention work, not only through resourcing but also by supporting meaningful structures to enable coordination across jurisdictions (this builds on recommendation 3.4 on page xx).

29.15 Proactively build the capacity of civil society organisations to deliver gender equality and violence prevention education to children and young people.

This issue is more likely to negatively impact: Survivors of violence

Inequality Intersects
Information in this part of the report is related to:

Key Issue 3: Reduced funding and support for specialist women’s services page xx
Key Issue 25: Lack of protection for vulnerable witnesses in family violence cases page xx
Key Issue 30: The Australian legal system’s response to family violence page xx
Key Issue 30: The Australian legal system’s response to domestic and family violence

Background:
30.1 In 2010, the Australian and NSW Law Reform Commissions (ALRC/NSWLRC) released: *Family Violence – a National Legal Response*, a report on its inquiry into the effectiveness of the Australian legal system in responding to family violence. The report contained 186 recommendations for reform. The focus of the report was on the interaction between State and Territory family violence and child protection laws with the *Family Law Act 1975* (Cth) and other relevant Commonwealth, State and Territory criminal laws. The report also addressed concerns regarding the impact of inconsistent interpretation or application of laws in cases of sexual assault in the context of family violence.

30.2 In June 2013, the Australian Government responded to the ALRC/NSWLRC Report, concluding that of the reports 186 recommendations:
• 33 affected jurisdictions jointly and would be dealt with separately by the National Justice Chief Executive Officers’ (NJCEO) project (which would look at the recommendations concerning collaboration between the family law and child protection systems) and the Standing Council on Law and Justice (which would look at the remaining 24 recommendations);
• 97 affected only States and Territories and as such, would be considered individually by each jurisdiction; and
• 56 would be responded to by the Australian Government.

2010/2012 CEDAW Committee Consideration:
30.3 In its 2010 concluding observations, the CEDAW Committee recommended that Australia continue its efforts to tackle the persistent problem of violence against women, including taking specific legislative measures to criminalise and prosecute acts of domestic violence and punish perpetrators. It was also requested that Australia provide, in a follow-up letter to the Committee, further information regarding the prevalence and scope of domestic violence in Australia, the sanctions imposed on perpetrators and the support provided to survivors.

30.4 Upon considering the further information provided by Australia in its follow up letter (received on 22 November 2012), the CEDAW Committee noted that while adequate legislation had been implemented in some States and Territories, more needed to be done to improve the Australian legal system’s response to domestic and family violence. The Committee asked that, in its next periodic report, Australia provide additional information on actions taken to ensure that perpetrators of domestic violence were held accountable for their actions.

Positive Developments:
30.5 The passage of the *Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011* (Cth), which amended the *Family Law Act 1975* (Cth) including broadening the definition of family violence in line with the ALRC’s common interpretative framework.

30.6 Action 19 under the Second Action Plan, which refers to the establishment of the Australian Domestic and Family Violence Death Review Network to bring together representatives from each operating specialist domestic and family violence death review unit to share information, data and improve knowledge about family domestic violence related deaths. However, it is noted with great concern that Northern Territory, Tasmania and ACT do not have specialist domestic and family violence death review units, and the NSW Domestic Violence Death Review team has not met in over 12 months despite a requirement to meet at least four times a year.
Remainding Challenges:

30.7 The Australian Government response to the 56 recommendations outlined in the *Family Violence – a National Legal Response* report is disappointing. More than half of the recommendations have merely been “noted” and many of the recommendations appear to fall to the States and Territories for consideration.\(^233\) The response also relied heavily on initiatives the Government has already introduced, rather than acknowledging the gaps that still exist in the system that prevent women and children being safe from violence.\(^234\) The Government’s response also failed to act on a number of areas where national consistency is required, including the recommendation that State and Territory Governments should undertake systemic and ongoing reviews into deaths resulting from family violence. There is significant concern that without a clear strategy for monitoring the implementation of these vital reforms, they will not be fully implemented.

30.8 Following the release of *Family Violence – a National Legal Response*, the ALRC was asked to further inquire into the treatment of family violence in Commonwealth laws (other than the *Family Law Act*), and to identify what improvements could be made to relevant legal frameworks to protect the safety of those experiencing family violence. Specifically, the ALRC was asked to look at child support and family assistance law, immigration law, employment law, social security law and superannuation law and privacy provisions. The ALRC’s Final Report was publicly released in February 2012,\(^235\) however yet again, only a small number of the recommendations from this second Inquiry have been implemented.

Recommendations:

We recommend that the Australian Government:


30.10 Work collaboratively with its State and Territory counterparts to implement the outstanding recommendations made by the Australian Law Reform Commission and NSW Law Reform Commissions in the 2010 and 2012 Family Violence Reports.

We further recommend that all State and Territory Governments:

30.11 Urgently adopt statutorily established and securely funded specialist domestic and family violence death review unit; or ensure that current units are statutorily based, securely funded and comply with best practice principles, including mandating agency responses to and public monitoring of implementation of review recommendations.

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**Inequality Intersects**

Information in this part of the report is related to:

- **Key Issue 7:** Improving the legal response and support available to trafficked women  
  - page xx
- **Key Issue 14:** Insufficient access to support services for women on temporary visas who are experiencing family violence  
  - page xx
- **Key Issue 25:** Lack of protection for vulnerable witnesses in family violence cases  
  - page xx
- **Key Issue 29:** Implementation of the National Plan to End Violence Against Women  
  - page xx
References

Key Issue 1:
5. CEDAW/C/AUS/CO/7/21
6. CEDAW/C/AUS/CO/7/25

Key Issue 2:
13. CEDAW/C/AUS/CO/7/24
14. CEDAW/C/AUS/CO/7/25
15. Ibid.

Key Issue 3:
17. Regina Graycar and Jenny Morgan, ‘Disabling Citizenship: Civil Death for Women in the 1990’s?’.
18. CEDAW/C/AUS/CO/7/29
19. Ibid.
20. Save Our Women’s Services Campaign Website. Available online: http://www.soswomensservices.com/

Key Issue 4:

Key Issue 5:
39. Association of Women Educators (AWE) submission to the 2014 CEDAW Shadow Report
43. See for example, Women’s Legal Services Australia Priority Issues 2013: http://www.wlsa.org.au/media_releases/wlsa_priorities
46. CEDAW/C/AUS/CO/7/31.
53. CEDAW/C/AUS/CP/7/33

Key Issue 9:

67. CEDAW/C/AUS/CO/7/35
68. Ibid
71. CEDAW/C/AUS/CO/7; CEDAW/C/AUL/CO/5; CRPD/C/AUS/CO/1

Key Issue 10:

76. NATSILS. Government to defund Aboriginal Legal Services Peak Body and all Law Reform and Policy Positions, Media Release, 17 December 2013.
77. Community Law Brandis restrictions starting tomorrow seek to silence community legal centres speaking out on unfair laws, policies and practices, Media Release, 30 June 2014.

Key Issue 11:


Key Issue 12:

80. The Hon. Julie Bishop MP in ‘The new aid paradigm’ speech delivered on 18th June 2014 at the National Press Club, Canberra.

Spotlight on Women in Prison:

90. Convention on the Rights of the Child, ratified by Australia on 17 December 1990, Articles 8, 9(3); Articles 30, 31, 20(3), 29(1) (c) respectively.


Key Issue 13:


97. Girls and boys are grouped together as ‘children’ and there is no data in this report showing the breakdown. As at April 2014 there were 190 children on Nauru. See: https://www.immi.gov.au/managing-australias-borders/detention/_pdf/immigration-detention-statistics-apr2014.pdf


Key Issue 14:


Key Issue 15:


107. CEDAW/C/AUS/CO/7/37


111. Ibid.


Key Issue 16:

116. CEDAW/C/AUS/CO/7/37


118. Calculated at http://highereducationstatistics.education.gov.au


Key Issue 17:


Key Issue 18:

134. Ibid.
135. CEDAW/C/AUS/CO/7/39.
136. CEDAW/C/AUS/CO/7/39.

Spotlight on Women with Disabilities:

148. CRPD/C/AUS/CO/1.
149. CEDAW/C/AUS/CO/7; See also: CEDAW/C/AUL/CO/5.
151. Ibid.
154. CRPD/C/AUS/CO/1.


158. CEDAW/C/AUS/CO/7; CEDAW/C/AUL/CO/5; CRPD/C/AUS/CO/1


160. CRPD/C/AUS/CO/1; CEDAW/C/AUS/CO/7; CEDAW/C/AUL/CO/5.

Key Issue 19:


Key Issue 20:

166. In National Rural Health Alliance (2012). Women’s Health in Rural Australia. Fact Sheet.


170. See, for example, Women’s Legal Services NSW submission in response to the Australian Government’s draft Universal Periodic Review report, June 2010


Key Issue 21:


177. Australian Bureau of Statistics (2013) Gender Indicators, Australia, cat no. 4125.0

Key Issue 22:


180. The taper rate is the rate at which income support payments reduce as personal earnings increase.


**Key Issue 23:**


**Key Issue 24:**


**Spotlight on Immigrant and Refugee Women**


**Key Issue 25:**


200. Criminal Procedure Act 1986 (NSW) s 294A; Criminal Procedure Act 2009 (Vic) ss 356-357; Evidence Act 1977 (Qld) s 21N; Evidence Act 1906 (WA) s106G; Evidence Act 1929 (SA) s 13B; Evidence (Miscellaneous Provisions) Act 1991 (ACT) s 38D; Sexual Offences (Evidence and Procedure) Act 1983 (NT) s 5; Evidence (Children and Special Witnesses) Act 2001 (Tas) s 8A.

201. Domestic and Family Violence Protection Act 2012 (Qld) s 151; Family Violence Protection Act 2008 (Vic) ss 70-71; Restraining Orders Act 1997 (WA) s 44C; Intervention Orders (Prevention of Abuse) Act 2009 (SA) s 29(4); Domestic and Family Violence Act 2007 (NT) s 114.

**Key Issue 26:**


203. For example, Attorney-General Portfolio Budget Statements 2014-15 at 19, 29;

204. Restrictions have also been placed on legal assistance service providers using Commonwealth government funding for law reform and advocacy work. See the section on Article 7 for further information.


208. For example, Women’s Legal Services Australia (WLSA), a national network of community legal centres specialising in women’s legal issues in the WLSA submission to the Productivity Commission’s Access to Justice Inquiry, 4 November 2013 at 18.

**Key Issue 27:**


**Key Issue 28:**

215. Statistics provided by the Australian Attorney-General’s Department, June 2014.


**Key Issue 29:**


220. CEDAW/C/AUS/CO/7/29.

221. Correspondence from Barbara Bailey (Rapporteur on CEDAW follow-up) to Mr. Peter Woolcott (Permanent Representative of Australia to the UN) dated 3 September 2013. Ref: AA/follow-up/Australia/55.

222. Correspondence from Barbara Bailey (Rapporteur on CEDAW follow-up) to Mr. Peter Woolcott (Permanent Representative of Australia to the UN) dated 3 September 2013. Ref: AA/follow-up/Australia/55.


**Key Issue 30:**


229. CEDAW/C/AUS/CO/7/29.

230. Ibid.

231. Coroner’s Act 2009 (NSW), Schedule 3, cl 8(2).


