



# Shadow Report to the CEDAW Committee

## About Equality Rights Alliance

The Equality Rights Alliance (ERA) is one of the six National Women's Alliances funded to advise the Australian government on federal level gender policy. ERA is Australia's largest network of organisations advocating for gender equality, women's economic security, women's leadership, and recognition of women's diversity. We are advised by over 70 members, who are national-level or expert civil society organisations with a focus on the impact of policy or service delivery on women. ERA is funded by the Department of Prime Minister and Cabinet through the Office for Women.

The following organisations have contributed material, advice and expertise to this report:

- Equality Australia
- Federation of Ethnic Communities' Councils of Australia
- Family Planning Alliance Australia
- Intersex Human Rights Australia
- International Women's Development Agency
- Jubilee Australia
- Kingsford Legal Centre
- Project Respect
- Maternity Choices Australia
- Settlement Services International
- Sisters Inside
- Women's Environmental Leadership Australia

## RESPONSE TO ISSUES

### Constitutional and Legal Recognition

Human rights are not fully and equally enjoyed by all people in Australia. Australia is yet to enact CEDAW into domestic law, and human rights generally are still not comprehensively protected in Australia. Despite significant public and civil society support for a Human Rights Act, successive governments have failed to enact such protection. In November 2023, the Australian Human Rights Commission (AHRC) recommended improving the protection of human rights by implementing large, structural reforms at the national level to be advanced through a National Human Rights Framework. In May 2024, an inquiry by a Federal parliamentary committee recommended that the Government introduce legislation to establish a Human Rights Act.

Australia was once a world leader in anti-discrimination law<sup>1</sup>, with the *Sex Discrimination Act 1984* (Cth) (the Sex Discrimination Act) considered international best practice when it was introduced. However, Australia has now fallen behind. The AHRC's *Respect@ Work: Sexual Harassment National Inquiry Report* resulted in significant and welcome reforms. For example, the introduction of a positive duty under the Sex Discrimination Act for organisations and businesses to take reasonable and proportionate measures to prevent and eliminate unlawful sex discrimination and harm. However, this progress has been impeded by multiple

inconsistent and overly technical anti-discrimination legislation. This approach does not provide adequate remedies for intersectional discrimination and creates significant exceptions and barriers to individuals bringing complaints and seeking remedies. It has also created gaps in protections. For example, it continues to infringe on the rights of students and staff to non-discrimination in education and work on the basis of their sexual orientation, gender identity, marital or relationship status or pregnancy. A person experiencing intersectional discrimination must navigate different tests for different attributes, with different elements of proof.

We believe tests for discrimination should be simplified to move away from the current focus on direct and indirect discrimination, and instead ensure that multiple and overlapping grounds of discrimination are recognised so that protections for different attributes are able to work together easily across anti-discrimination legislation.

#### **We recommend that the Australian government:**

- Implement all 12 recommendations of the AHRC Free & Equal Final Report 2023.
- Enact a federal Human Rights Act that comprehensively recognises human rights in Australia, includes mechanisms for balancing competing rights, and is judicially enforceable, whilst offering accessible and effective remedies.
- Comprehensively enact CEDAW in legislation.

<sup>1</sup> The introduction of the Racial Discrimination Act 1975 (Cth) was the basis for this reputation. The Sex Discrimination Act 1984 (Cth) (Sex Discrimination Act) and Disability Discrimination Act 1992 (Cth) (Disability Discrimination Act) were also considered international best practice at the time they were introduced.

- Strengthen the human rights oversight function of the Parliamentary Joint Committee on Human Rights (PJCHR) by: (a) giving it guaranteed time for scrutiny for Bills and Legislative Instruments if they propose to limit human rights; (b) giving it the power to conduct ‘own-motion’ investigations to address systemic issues which come to its notice, rather than only those into which the government wishes to inquire into; (c) prescribing that Legislative Instruments with implications for human rights be disallowable by default; and (d) making internal government advice on Australia’s international human rights obligations a routine part of legislative development work.
- Implement the recommendations made by the PJCHR in its report on the Inquiry into Australia’s Human Rights Framework.
- Modernise federal discrimination laws by enacting a comprehensive Equality Act that addresses all prohibited grounds of discrimination, promotes substantive equality and provides effective remedies, including against systemic and intersectional discrimination. This legislation should also provide a proactive/positive obligations model that seeks to prevent discriminatory treatment in the first place, rather than the current reactive model, which mostly only responds to discriminatory treatment.

## National Human Rights Institution

Since 2018, continued long-term underfunding of the Australian Human Rights Commission (AHRC) has seen the AHRC sometimes unable to perform some of its statutory functions. This resulted in significant backlogs in complaints for discrimination and human rights matters, culminating in the AHRC not being reaccredited as an A-status national human rights institution in 2022.<sup>2</sup> These issues were exacerbated by the historic spike in complaints during the COVID-19 pandemic.

A change in Government in 2022 and subsequent increases in funding partly addressed these issues by increasing the AHRC’s baseline funding to a level that enabled it to stabilise its staffing profile.<sup>3</sup> The AHRC was also re-accredited as an A-status NHRI in November 2023. However, the current core funding of the AHRC is still well below the level that the AHRC has benchmarked as necessary to discharge its statutory functions properly.<sup>4</sup>

### **We recommend that the Australian government:**

- Strengthen the mandate of the AHRC and ensure it has appropriate and sustainable funding to effectively carry out its functions, including increasing baseline funding and providing additional funding to support its new legislative powers under the Anti-Discrimination and Human Rights Legislation Amendment (Respect

<sup>2</sup> Australian Human Rights Commission, *Annual Report 2022-2023*.

<sup>3</sup> Australian Human Rights Commission, *Annual Report 2022-2023*, p.18

<sup>4</sup> Australian Human Rights Commission, *Free and Equal Final Report 2023: Revitalising Australia’s commitment to human rights*, p.162.

at Work) Act 2022 (Cth) and the implementation of the National Human Rights Framework as recommended in the Final Report of the Free & Equal project.

- Ensure that the appointment of any new statutory Commissioners is accompanied with additional funding so that Commissioners are appropriately resourced to fulfil their mandate.

## Climate change and disaster risk reduction

Research has demonstrated that climate change and natural disasters will disproportionately impact communities that already face vulnerabilities, including and especially women. However there has been limited acknowledgement of the gendered impacts of climate change in the Australian context, despite widespread international recognition.<sup>5</sup> Such acknowledgement is missing or only briefly mentioned in key government policies, including Working for Women, the national gender equality strategy released in 2024.<sup>6</sup>

Women and diverse people have worse health and safety outcomes during climate and environmental challenges.<sup>7</sup> For those from First Nations, culturally diverse, or socio-economically disadvantaged backgrounds, the impacts are even greater. Most alarmingly, gender-based violence (GBV) increases significantly in the aftermath of environmental disasters.<sup>8</sup> Despite this, the National Plan to End Violence Against Women and Children 2022-2032 only briefly mentions this link, with no acknowledgement that climate change therefore exacerbates the risks of GBV.<sup>9</sup>

Similarly, women and gender diverse people are often at the forefront of community disaster preparation and recovery, but this vital work is generally under-resourced.<sup>10</sup> We know that gender diverse leadership leads to new approaches and better outcomes across diverse sectors including politics, industry and conservation, yet barriers to women's leadership in these spaces remain

---

5 Women's Environmental Leadership Australia, *Gender, Climate and Environmental Justice in Australia* (2024), <https://wela.org.au/gender-climate-report/>.

6 Commonwealth Department of the Prime Minister and Cabinet, *Working for Women: A Strategy for Gender Equality* (2024), <https://www.pmc.gov.au/office-women/working-women-strategy-gender-equality>; Toni Hassan, 'Gender Strategy Fails Climate Test', *The Saturday Paper*, 30 March 2024, <https://www.thesaturdaypaper.com.au/life/environment/2024/03/30/gender-strategy-fails-climate-test>.

7 Daisy Dunne, *Mapped: How Climate Change Disproportionately Affects Women's Health*, Carbon Brief, 29 October 2020, <https://www.carbonbrief.org/mapped-how-climate-change-disproportionately-affects-womens-health/>.

8 Robyn Molyneaux, Lisa Gibbs, Richard A. Bryant, Cathy Humphreys, Kelsey Hegarty, Connie Kellett, H. Colin Gallagher, et al, 'Interpersonal Violence and Mental Health Outcomes Following Disaster', *BJPsych Open* 6, no. 1 (2020).

9 Commonwealth Department of Social Services, *National Plan to End Violence against Women and Children 2022-2032* (2022), <https://www.dss.gov.au/the-national-plan-to-end-violence-against-women-and-children/the-national-plan-to-end-violence-against-women-and-children-2022-2032>; Commonwealth Department of Social Services, *Aboriginal and Torres Strait Islander Action Plan 2023-2025* (2022), <https://www.dss.gov.au/the-national-plan-to-end-violence-against-women-and-children/aboriginal-and-torres-strait-islander-action-plan-2023-2025>.

10 Mary Farrow, 'Strengthening Women as an Investment in Community Resilience', *Australian Journal of Emergency Management* 31, no. 4 (2017) 36-37; Australia ReMADE, *Care Through Disaster* (Australia ReMADE and Women's Health Goulburn North East, 2023), <https://www.australiaremade.org/care-disaster>.

entrenched.<sup>11</sup> At the local, regional, national and international levels, women play a vital role in community engagement, mobilisation and advocacy. However, women are not equally represented in roles of leadership or decision-making, including in government and the private sector.

Despite recognition that Australia needs to rapidly transition to a renewable economy, women constitute only around 35% of the clean energy workforce, and gender is not foregrounded in the Future Made in Australia strategy or Net Zero plan.

### **We recommend that the Australian government:**

- Support more women and gender diverse people to enter positions of leadership and decision-making across government, industry and not-for-profit sectors to meet climate and environmental challenges. We additionally recommend measures to ensure diversity in this representation, including supporting women with lived experience of displacement and migration, particularly women who have been impacted by climate change and natural disasters.
- Apply a gender lens to all climate and environmental policy-making, recognising that women and gender diverse people are disproportionately

vulnerable to the effects of climate and environmental issues.

- Encourage the adoption of a gender lens to all climate and environmental finance projects across government, industry, philanthropy, academia, and the not-for-profit sector to maximise effectiveness and equity.
- Increase funding to support women to engage in education and training in relevant industries, to ensure women have the tools and skills necessary to further engage in climate action.

## **Employment**

### **Gender wage and the retirement income gap**

Australia's gender pay and superannuation gaps continue to pose significant barriers to gender equality. Australia's average total remuneration gender pay gap is 21.7%, equating to \$26,393 over the course of a year.<sup>12</sup> Whilst the pay gap has steadily declined since the enactment in 2014 of the Workplace Gender Equality Act 2012 (2012 Act),<sup>13</sup> progress has stalled in recent years, highlighting the need for further action. Women also continue to do the bulk of unpaid work, such as housework and shopping, spending 4 hours and 31 minutes a day doing unpaid work activities, while men spend over an hour less on these

11 Robyn James, Bridget Gibbs, Laura Whitford, Craig Leisher, Ruth Konia, and Nathalie Butt, 'Conservation and Natural Resource Management: Where Are All the Women?', *Oryx* 55, no. 6 (2021): 860-67; Séverine Le Loarne-Lemaire, Gaël Bertrand, Meriam Razgallah, Adnane Maalaoui, and Andreas Kallmuenzer, 'Women in Innovation Processes as a Solution to Climate Change: A Systematic Literature Review and an Agenda for Future Research', *Technological Forecasting and Social Change* 164 (2021): 120440; Astghik Mavisakalyan and Yashar Tarverdi, 'Gender and Climate Change: Do Female Parliamentarians Make a Difference?' *European Journal of Political Economy* 56 (2019): 151-164; Bloomberg NEF and Sasakawa Peace Foundation, *Gender Diversity and Climate Innovation* (2020), <https://www.spf.org/en/gender/publications/20201201.html>.

12 Workplace Gender Equality Agency, 'Gender Pay Gap Data' <<https://www.wgea.gov.au/pay-and-gender/gender-pay-gap-data>>.

13 In November 2018, the gender pay gap was 24.5%: Workplace Gender Equality Agency, 'Gender Pay Gap Data' <<https://www.wgea.gov.au/pay-and-gender/gender-pay-gap-data>>; Global Institute for Women's Leadership, Australian National University and King's College London, 'Gender pay gap reporting in Australia Time for an upgrade' (October 2021).

activities, averaging 3 hours and 12 minutes a day.<sup>14</sup>

Superannuation is key to the economic security of women in retirement. However, on average, women currently retire with 25-30% less superannuation than men.<sup>15</sup> Women, particularly single women, are thus at greater risk of experiencing poverty in retirement. In the 2024/2025 Federal Budget, the Government announced a welcome reform to pay superannuation on Government-funded paid parental leave for parents of babies born or adopted on or after 1 July 2025.<sup>16</sup>

**We recommend that the Australian government:**

- Address the gender pay gap, including by collecting intersectional and disaggregated data about the needs of diverse groups of women, and implementing the existing non-compliance sanctions in the 2012 Act to exclude non-compliant organisations from government procurement, contracting and financial assistance.

**Parental leave and discrimination**

Women in Australia continue to experience high levels of discrimination by employers when pregnant or returning to work after parental leave. Under Australia’s minimum

National Employment Standards (NES),<sup>17</sup> all employees with 12 months continuous service are entitled to 12 months unpaid parental leave.<sup>18</sup> However, where mothers do not have 12 months continuous service, their employment is often terminated. Paid parental leave is essential to address the gendered wealth gap. Encouragingly, from 1 July 2024, 2 weeks of payment was added to parental leave, with this pay to increase each year to 2026. This will increase the overall length of the paid parental leave scheme by 6 weeks from July 2026. Unfortunately, eligibility requirements mean that many mothers in the workforce do not meet the work test, and thus cannot access the scheme.

**We recommend that the Australian government:**

- Amend the National Employment Standard to extend the entitlement of 12 months unpaid parental leave to all employees.
- Amend the Sex Discrimination Act 1986 (Cth) to include indirect discrimination on the grounds of ‘family responsibilities’ and a positive duty on employers to reasonably accommodate the needs of workers who are pregnant and/or have family responsibilities.
- Extend the duration of Government-funded paid leave for both primary carer

14 Australian Bureau of Statistics, Media Release, *Females do more unpaid work, males do more paid work* (17 October 2022), <<https://www.abs.gov.au/media-centre/media-releases/females-do-more-unpaid-work-males-do-more-paid-work>>.

15 The Association of Superannuation Funds of Australia, ASFA Research: An update on superannuation account balances, November 2023, <[https://www.superannuation.asn.au/wp-content/uploads/2024/01/2311\\_An\\_update\\_on\\_superannuation\\_account\\_balances\\_Paper\\_V2.pdf](https://www.superannuation.asn.au/wp-content/uploads/2024/01/2311_An_update_on_superannuation_account_balances_Paper_V2.pdf)>; and UNSW Sydney, ‘Influential super fund takes aim at Australia’s ‘gender retirement gap’ (28 March 2024), <<https://www.unsw.edu.au/news/2024/03/influential-super-fund-takes-aim-at-australias-gender-retirement-gap>>.

16 Australian Government, ‘Media release: A budget that works for women’ (14 May 2024), <<https://ministers.pmc.gov.au/gallagher/2024/budget-works-women>>.

17 The National Employment Standards are ten minimum entitlements that must be provided to all employees. Fair Work Ombudsman, ‘National Employment Standards’.

18 *Fair Work Act 2009* (Cth) s 67.

and partner to a minimum total of 26 weeks and remove the work test to allow all mothers who are employed prior to giving birth or adopting a child to access the Government-funded paid parental leave scheme.

## Education

Section 38 of the *Sex Discrimination Act 1984* (Cth) (SDA) allows religious educational institutions to discriminate against staff and students based on their gender, sexual orientation, pregnancy and marital status. There are approximately 1,800 Catholic schools and 1,100 independent schools in Australia, employing more than 200,000 staff and educating more than 1.4 million students.<sup>19</sup> Most of these independent schools are religiously affiliated.<sup>20</sup> Australia also has a small number of religiously affiliated universities and colleges.

Research has identified discrimination against teachers and students occurring in religious educational institutions in Australia on the grounds of gender, sexuality, marital status and pregnancy.<sup>21</sup>

## We recommend that the Australian government:

- Implement the recommendations of Report 142 of the Australian Law Reform Commission, including repealing section 38 of the SDA.<sup>22</sup>

## Women in detention

### Policy and Institutional Measures

Mandatory sentencing is a system that leads to disproportional and anomalous outcomes, particularly for Aboriginal and Torres Strait Islander women and girls.<sup>23</sup>

We believe legislative reforms are necessary to eliminate “paperless arrest” practices and mandatory sentencing laws and reduce the hyper-incarceration of Aboriginal people and associated outcomes such as deaths in custody. We note that UN special rapporteur Victoria Tauli-Corpuz noted the disproportionate impact of such laws on Indigenous people in comments made in 2017.<sup>24</sup>

We also note with grave concern the recently announced Northern Territory plan to lower the age of criminal responsibility

19 ABS (2022) *Schools, Australia 2021*. Available at: [https://www.abs.gov.au/statistics/people/education/schools/2022#:~:text=Students-,In%202022%3A,and%20independent%20schools%20\(15.9%25\)](https://www.abs.gov.au/statistics/people/education/schools/2022#:~:text=Students-,In%202022%3A,and%20independent%20schools%20(15.9%25)).

20 Equality Australia (2024) *Dismissed, Denied and Demeaned: A national report on LGBTQ+ discrimination in faith-based schools and organisations*, pp. 24-25. Available at <https://equalityaustralia.org.au/wp-content/uploads/2024/04/Dismissed-Denied-and-Demeaned-Final.pdf>

21 Ibid pp 13-24, ALRC (2023) *Maximising the Realisation of Human Rights: Religious educational institutions and anti-discrimination laws*, [3.52] - [3.53] available at: <https://www.alrc.gov.au/wp-content/uploads/2024/03/ALRC-ADL-Final-Report-142.pdf> ; Independent Education Union of Australia (IEU) (2020) *Submission on Religious Discrimination Bill 2019*, attachment 2. Available at [https://ieuqnt.org.au/wp-content/uploads/2020/09/Religious\\_Freedoms\\_Bills\\_IEU\\_Submission.pdf](https://ieuqnt.org.au/wp-content/uploads/2020/09/Religious_Freedoms_Bills_IEU_Submission.pdf)

22 ALRC (2023) pp13-14

23 ‘Policy Discussion Paper on Mandatory Sentencing (2014) Law Council of Australia, <https://lawcouncil.au/publicassets/f370dcfc-bdd6-e611-80d2-005056be66b1/1405-Discussion-Paper-Mandatory-Sentencing-Discussion-Paper.pdf>

24 ‘UN official slams racism in Australia’ (2017), SBS, <https://www.sbs.com.au/news/article/un-official-slams-racism-in-australia/v4ape91hy>



to ten years old.<sup>25</sup>

### **We recommend that the Australian government:**

- Invest in holistic early intervention by adequately funding community-based programs developed, managed and staffed by people, where possible, who have lived experience of criminalisation.
- Prioritise and invest in public health focused responses and greater investment in community-led treatment support, rehabilitation and health services, rather than ‘law and order’ approaches. Government should also invest in diversion programs that support people to access community-based support services, including transformative justice programs, health care, education and employment programs.
- Develop a properly funded anti racist and anti-gender-based violence community program that can regularly engage with people who have engaged in abusive behaviour or people with racist beliefs in group and individual settings over long periods.
- Develop non-custodial measures such as systems of accountability like trauma treatment and alcohol addiction treatment.
- Abolish “Paperless Arrest” and mandatory sentencing laws.

### **Programs for Women in Detention**

Women in detention have unique needs

<sup>25</sup> ‘NT plan to lower age of criminal responsibility to 10 could contribute to ‘child jail crisis’, advocate says’ (2024), The Guardian, <https://www.theguardian.com/australia-news/article/2024/sep/10/nt-age-of-criminal-responsibility-lowered-10-impact>

<sup>26</sup> ‘The health and welfare of women in Australia’s prisons’ (2020), Australian Institute of Health and Welfare, <https://www.aihw.gov.au/getmedia/32d3a8dc-eb84-4a3b-90dc-79a1aba0efc6/aihw-phe-281.pdf.aspx?inline=true>

that are frequently inadequately addressed by existing programs.

### **We recommend that the Australian government:**

- Fund organisations led by criminalised women to develop, manage and run programs that address the unique needs of women in detention, including education, well well-being, vocational training, and mental health support.
- Fund criminalised women to develop culturally relevant programs that address the specific needs of Indigenous women, who are disproportionately affected by minor offences. This includes adequately and abundantly funded legal aid and community support networks.
- Develop alternatives to detention by establishing an abolition framework. This framework should be used to develop a ‘de-carceration’ strategy to free women from detention. Government should additionally establish non-custodial support programs for women, including wider services such as homes and health programs to ensure ongoing support is maintained.

### **Budgetary and Institutional Measures for Health Care**

Australian government documents have reported that “more than one-third (36%) of female prison entrants reported having been diagnosed with a current chronic condition.”<sup>26</sup> The same report noted that there is insufficient data on the prevalence on physical disabilities among female

prison entrants, meaning that it is near impossible for the government to assess whether the disabled women and girls in detention are receiving adequate support. Positively, more recent data shows that many detainees report “good or excellent” experiences with prison clinics.<sup>27</sup> It is worth noting that this data has not been disaggregated, meaning that there is no way to track different detainees’ experiences of the health system outside of prison.

However, multiple accounts have detailed a lack of access to adequate menstrual hygiene products and care in Australian prisons. For example, 2019 consultation by the Queensland Human Rights Commission includes testimony from one woman who recounted having to stick a menstrual pad to her tracksuit, as she was not provided with any underwear.<sup>28</sup> We note that currently prison health services are funded at the state level, meaning prisoners are unable to access federal health schemes such as the Medicare Benefits Schedule (MBS) and Pharmaceutical Benefits Scheme (PBS).<sup>29</sup>

### **We recommend that the Australian government:**

- Allocate budgetary resources to ensure all women and girls in detention undergo

thorough health screenings upon entry and periodically thereafter. This includes assessments of physical and mental health, substance abuse, and reproductive health needs. Government should ensure those in detention receive the appropriate supports both during incarceration and upon release.

- Ensure women in detention have continuous access to necessary health services, including mental health care, prenatal and postnatal care, and treatment for chronic conditions. Collaboration with external health providers and regular audits of health services can help maintain standards. Women in detention should have access to Medicare, PBS and NDIS.

### **Addressing Sexual Violence**

Australian government reporting has noted that assaults by prisoners on other people in custody are often under-reported, making it challenging to fully understand the scale of the problem.<sup>30</sup> Out of the prison discharges surveyed by government over “9 in 10 (96%) reported that they had not been sexually assaulted in prison and 1.6% said they wished not to answer.”<sup>31</sup> However, independent research published by Human Rights Watch in 2018 documented multiple

27 ‘New report reveals shocking state of prisoner health’ (2023), Swinburne University, <https://www.swinburne.edu.au/news/2023/11/new-report-reveals-shocking-state-of-prisoner-health-heres-what-needs-to-be-done/>

28 ‘Women in Prison 2019: A human rights consultation report’ (2019), Anti-Discrimination Commission Queensland, [https://www.qhrc.qld.gov.au/\\_\\_\\_data/assets/pdf\\_file/0003/17139/2019.03.05-Women-In-Prison-2019-final-report-small.pdf](https://www.qhrc.qld.gov.au/___data/assets/pdf_file/0003/17139/2019.03.05-Women-In-Prison-2019-final-report-small.pdf)

29 ‘New report reveals shocking state of prisoner health’ (2023), Swinburne University, <https://www.swinburne.edu.au/news/2023/11/new-report-reveals-shocking-state-of-prisoner-health-heres-what-needs-to-be-done/>

30 ‘The health of people in Australia’s prisons 2022’ (2022), Australian Institute of Health and Welfare <https://www.aihw.gov.au/reports/prisoners/the-health-of-people-in-australias-prisons-2022/contents/physical-health-status/physical-and-sexual-assaults>

31 Ibid

cases of sexual violence against prisoners with disabilities.<sup>32</sup>

**We recommend that the Australian government:**

- Implement strict protocols for investigating and prosecuting cases of sexual violence in detention facilities. These protocols should be accompanied by the maintenance of transparent records of reported cases, investigations, prosecutions, and outcomes. Government should additionally ensure that cases are investigated by an independent body.
- Regularly publish statistics comparing the number of reported cases of sexual violence to the number of investigations and prosecutions to ensure accountability. Human rights organisations, including organisations led by criminalised people, should be given access to this data.

**Alternative Screening Methods**

The Queensland Human Rights Commission report into strip searches of women in Queensland prisons found that strip searches were frequently retraumatising for female prisoners (many of whom had experienced sexual violence and other traumas), and led to “experiences of vulnerability, shame, and discomfort, even for those who may become desensitised to this practice over time.”<sup>33</sup> The report also noted that prisoners felt increased humiliation and distress when subjected to such searches while menstruating. Some

women reported that they were less likely to seek mental health treatment or attend court dates due to mandatory strip search requirements.

**We recommend that the Australian government:**

- Implement non-invasive screening procedures. Government should adopt an alternative screening method to strip-searches, such as a body scanner. Pat downs, cavity and strip searches must be discontinued. Only methods that respect the dignity and privacy of people in detention should be used.
- Review and implement recommendations from the Queensland Human Rights Commission’s 2023 Stripped of our dignity report, including recommendations around the specific needs of Aboriginal and Torres Strait islander, LGBTIQI+, and disabled prisoners.

**Conditions of Detention**

**We recommend that the Australian government:**

- Government should regularly review and assess detention conditions to ensure they meet international standards set by the Bangkok Rules and the Nelson Mandela Rules. This includes adequate living conditions, access to healthcare, educational opportunities, and maintaining family connections.

32 ‘Interview: The Horror of Australia’s Prisons’ (2018), Human Rights Watch, <https://www.hrw.org/news/2018/02/06/interview-horror-australias-prisons>

33 ‘Stripped of our Dignity: A human rights review of policies, procedures, and practices in relation to strip searches of women in Queensland prisons’ (2023), Queensland Human Rights Commission, [https://www.qhrc.qld.gov.au/\\_\\_data/assets/pdf\\_file/0009/45189/QHRC\\_StrippedOfOurDignity\\_SummaryReport.pdf](https://www.qhrc.qld.gov.au/__data/assets/pdf_file/0009/45189/QHRC_StrippedOfOurDignity_SummaryReport.pdf)

- Facilitate regular inspections by independent bodies to monitor compliance and address any identified deficiencies promptly.
- Publish compliance data comparing the compliance against the Rules to ensure accountability. Organisations led by criminalised people as well as other human rights organisations must have access to this information to conduct independent research and hold government to account where necessary.

## Extraterritorial Obligations

Negotiations surrounding the approval of the Wafi-Golpu mine in Papua New Guinea been ongoing for years. The project has been proposed and is being managed by two Australian companies – Newcrest Mining Ltd and Harmony Gold (Australia) Pty Ltd, ultimately owned respectively by American company Newmont Corporation and South African company Harmony Gold. The copper and gold mine from this project will generate huge quantities of waste. The tailings management for the project relies on a pipeline stretching more than 100km from the mine site to the ocean. The companies then plan to dump all their tailings into the sea – an expected 360 million tonnes over 28 years.

We understand that women from the village of Yanga only became aware in 2024 that the project wants to run a pipeline carrying tailings (incorporating heavy metals such as arsenic, lead, mercury) through the main street of their village. This pipeline will pass within metres of the primary school, and lead to the as-yet unidentified destruction of homes. Yanga village is the

last village on the companies’ planned pipeline route to the ocean. The village of Yanga did not provide their free, prior and informed consent to this development. The community depends on the ocean – as do approximately 400,000 people living along the Huon Gulf coastline, and the citizens of Lae, PNG’s second largest city, which is only 5km away from the pipeline discharge point. Lae is also a centre for the fishing industry, with many men working as fishermen or at one of the four commercial canneries to support their families. The area is prone to flooding and earthquakes, which could place communities at risk of contamination if the pipeline were to rupture. In the sea, the tailings will spread around the Huon Gulf region, propelled by currents, potentially contaminating seafood and damaging marine ecosystems, and potentially leading to unhealthy levels of heavy metal contamination.

The impacts of this project will undoubtedly be borne by women – who will struggle to maintain livelihoods which depend heavily on the ocean. We are also concerned about the impact of potential heavy metal contamination on women’s health. Women are also likely to bear the burden of gender based and domestic violence in the wake of men struggling to make an income due to environmental damage.

We note that General Comment No. 39 on the rights of indigenous women and girls states that: “The exploitation of indigenous lands, territories, and natural resources for extractive, development, tourism, investment, mining, and other economic activities by state and non-state actors without their free, prior, and informed consent and adequate benefit-

sharing constitutes discrimination against indigenous women and girls.”<sup>34</sup>

In 2022, 2,596 people lodged a complaint with the Australian National Contact Point for Responsible Business Conduct, asserting that the involved companies had breached the OECD Guidelines on Multinational Enterprises.

### **We recommend that the Australian government:**

- Strengthen the powers of the Australian National Contact Point for Responsible Business Conduct to inquire into and make recommendations regarding the conduct of Australian companies acting overseas, noting human rights impacts on women and girls.

## **Trafficking**

Australia has not implemented a federal compensation scheme for victims of trafficking.<sup>35</sup>

The implementation of the National Action Plan to Combat Modern Slavery 2020-25 does not include funding for NGO service providers outside of the Support for Trafficked People’s Program, and the ongoing pilot to expand the pathway to the STPP beyond referral from the Australian Federal Police. With funding to service provider NGOs on the National Roundtable on Human Trafficking and Slavery ceasing in 2015, only short-term grant arrangements are available to providers

<sup>34</sup> General Comment No. 39 on the rights of Indigenous women and girls, at [22].

<sup>35</sup> UNSW Law Journal, Modern Slavery and Material Justice: The Case for Remedy and Reparation, Simmons, Burns & McLeod (2022)

<sup>36</sup> Australian Institute of Criminology, Sexual exploitation in Australia: Victim-survivor support needs and barriers to support provision, Boxall, Lyneham, Black & Gannoni (2023)

<sup>37</sup> The Conversation, Australia’s Hidden Housing Crisis: Survivors of Modern Slavery Have Few Safe Places to Turn (2023)

of services to diverse groups such as sex workers, women migrants or children in state care to implement early intervention work. This funding arrangement does not adequately consider the long-term complex needs of victim survivors of sexual exploitation.<sup>36</sup> It also fails to adequately consider the intersection of family violence and exploitation, particularly where sexual exploitation does not present in a workplace context and the victim survivor does not identify as a sex worker. These intersections are complicated by the fact that violence funding is state-based, while trafficking and exploitation are not considered in state-based action plans or service funding. The only trafficking safe house in Australia (suggested by UN CEDAW GR38. 93 as essential) is NGO operated and receives no funding from the Australian Government.<sup>37</sup>

Formal reporting on this issue has been unfortunately inconsistent. For example, the Interdepartmental Committee (IDC) on Human Trafficking and Slavery has not publicly published a summary report since 2020. The Targeted Review of Modern Slavery Offences in Div270 and 271 of the Criminal Code Act 1995 (Cth) has been completed, but the Government has yet to respond to the recommendations and no timeline has been provided. The Statutory Review of the Modern Slavery Act 2018 is complete but has not been actioned by the Government.

Australia will soon appoint its first Commonwealth Anti-Slavery Commissioner; however multiple stakeholders have indicated that the powers of the new commissioner and resourcing allocated are unduly limited and should include other functions such as receiving complaints.<sup>38</sup> Consultation responses were not incorporated in the legislation. UN CEDAW GR 38 .69 regarding access to complaint procedures and redress is partially satisfied.

Decriminalisation of the sex industry has progressed into new states, with decriminalisation recently enacted in Victoria and tabled in Queensland. Harmonisation between states has not yet been achieved.

**We recommend that the Australian government:**

- Develop and adopt a consistent Federal compensation scheme for victims of trafficking
- Expand Commonwealth funding to diverse services providers supporting marginalised communities including sex workers and migrant women, those undertaking early intervention and prevention work, those recognising the intersection between family violence and exploitation, and providers of gender specific safe accommodation to victims of trafficking
- Timetable and implement recommendations arising from the review of the Modern Slavery Act 2018

and the Targeted Review of Modern Slavery Offences in Div270 and 271 of the Criminal Code Act 1995 (Cth).

- Expand the legislative powers of the new Commonwealth Anti-Slavery Commissioner to include a complaints function
- Continue to progress the decriminalisation of sex work to occur across all states and territories.

## Health

Over the past decade in Australia, rates of sexually transmitted infections (STI) in women have been on the rise.<sup>39</sup> Between 2014 and 2019, the annual number of syphilis (<2 years duration) notifications in women increased by almost 500% (from 164 to 962 cases),<sup>40</sup> with surging cases of congenital syphilis.<sup>41</sup> Over the same period, the annual number of gonorrhoea notifications increased by over 120%.<sup>42</sup> Untreated STIs in women can have profound public health ramifications, leading to long-term reproductive sequelae such as chronic pelvic pain, pelvic inflammatory disease (PID), infertility and complications in pregnancy including spontaneous abortion, pre-term delivery, and neonatal infection.<sup>43</sup> However, despite rises in notifications women have not been identified as priority population under the Australian National STI Strategy.

Other government strategies have also ignored gendered health issues. We understand that Australian CSOs report

38 See Submissions received under the Modern Slavery Amendment (Australian Anti-Slavery Commissioner Bill) 2023, Be Slavery Free (Submission 20) & others.

39 Australian Institute of Health & Welfare, 2019

40 Australian Government Department of Health, 2018

41 Australian Government Department of Health, 2023

42 Australian Government Department of Health, 2021

43 World Health Organization, 2019

several obstetric violence submissions were ignored in the consultation period to develop the Sexual Violence National Action Plan. One recent study reported that 1 in 10 Australian women feel they have experienced obstetric violence,<sup>44</sup> with women reporting “feeling dehumanised, powerless and violated.”<sup>45</sup>

We note with concern that suicide is currently the leading cause of maternal death in the first year following birth, making properly investigating the impact of violations during childbirth a critical action for government.<sup>46</sup> It should be additionally noted that maternal death rates for Indigenous women are three times higher than their non-Indigenous counterparts.<sup>47</sup>

#### **The Australian government should:**

- Include women as a priority population within the National STI Strategy.
- Scale up comprehensive sexuality education in schools, through teacher training, the provision of classroom lesson plans and evidence-based teaching resources specifically relating to STI prevention and awareness.
- Ensure appropriate research, monitoring

and evaluation of the National STI Strategy.

- Fund and implement the National Maternity Strategy and increase federal-level intersectional monitoring of maternal suicide rates and causes of perinatal suicide and self-harm.
- Criminalise obstetric violence throughout all states and territories.

## **ADDITIONAL INFORMATION**

### **Harmful practices on intersex children**

Ahead of the 8th Periodic Report to Australia, Intersex Human Rights Australia shared evidence<sup>48</sup> of harmful practices in medical settings on children with intersex variations/differences of sex development – including a preschool child subjected to non-urgent surgery described by a judge as having “enhanced the appearance of her female genitalia”. The Periodic Report called for an end to harmful practices, and implementation of a relevant Senate committee report.<sup>49</sup>

Since this time, the AHRC has completed

<sup>44</sup> ‘Study finds one-in-ten Australian women have experienced obstetric violence’, Western Sydney University (2022),

[https://www.westernsydney.edu.au/newscentre/news\\_centre/more\\_news\\_stories/study\\_finds\\_one-in-ten\\_australian\\_women\\_have\\_experienced\\_obstetric\\_violence](https://www.westernsydney.edu.au/newscentre/news_centre/more_news_stories/study_finds_one-in-ten_australian_women_have_experienced_obstetric_violence)

<sup>45</sup> ‘1 in 10 women report disrespectful or abusive care in childbirth’, The Conversation (2022), <https://theconversation.com/1-in-10-women-report-disrespectful-or-abusive-care-in-childbirth-186827>

<sup>46</sup> ‘Perinatal Suicide: Signs, Safety and Support’, PANDA, <https://panda.org.au/articles/perinatal-suicide-signs-safety-and-support-options/#:~:text=In%20Australia%2C%20suicide%20is%20a,during%20the%20transition%20to%20parenthood.>

<sup>47</sup> ‘Maternal deaths in Australia 2015-2017’, Australian Institute of Health and Welfare (2020), <https://www.aihw.gov.au/reports/mothers-babies/maternal-deaths-in-australia-2015-2017/summary>

<sup>48</sup> Intersex Human Rights Australia, CEDAW Shadow Report on Australia (11 June 2018) <<https://ihra.org.au/32166/shadow-report-submission-cedaw/>>.

<sup>49</sup> Senate, *Involuntary or Coerced Sterilisation of Intersex People in Australia* (2013) <[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Involuntary\\_Sterilisation/Sec\\_Report/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilisation/Sec_Report/index)>.

an inquiry with stronger, welcome recommendations.<sup>50</sup> The Australian Capital Territory has enacted legislation ending many harmful practices on intersex children in medical settings, while one other jurisdiction (Victoria) has committed to reform. Additionally, a community-controlled psychosocial service has commenced, although this service is operating with precarious funding.<sup>51</sup> Unfortunately, other jurisdictions are either unresponsive to calls for reform, or have expressed confidence in unregulated, often undisclosed, practices.

For example, clinicians at a paediatric/ adolescent gynaecology service in Queensland state published a 2019 report showing systemic harmful practices on children with intersex variations, with no indication of change to practice.<sup>52</sup> Two clinicians have apologised for unspecified “past” practices, with no details of current practices, in a form of words that appears intended to resist legislative reform.<sup>53</sup>

#### **The Australian government should:**

- Implement the outstanding recommendations from the AHRC inquiry.
- Encourage all Australian jurisdictions to commit to reforming and enacting legislation to protect the human rights of intersex children and communities, including and especially in medical contexts.

---

50 Australian Human Rights Commission, *Ensuring Health and Bodily Integrity: Towards a Human Rights Approach for People Born with Variations in Sex Characteristics* (2021) <<https://humanrights.gov.au/intersex-report-2021>>.

51 Morgan Carpenter, ‘The Context and Goals of the Intersex Movement in Australia’ (2024) 13(4) *Social Sciences* 191.

52 Morgan Carpenter, ‘Fixing Bodies and Shaping Narratives: Epistemic Injustice and the Responses of Medicine and Bioethics to Intersex Human Rights Demands’ (2024) 19(1) *Clinical Ethics* 3.

53 *Ibid*

## **Women on temporary visas experiencing violence**

Currently, victim-survivors on temporary visas have no access to income support, housing and social supports or Medicare and health services. Reform in migration law is required to expand eligibility and access to family violence provisions, to allow women and children who are dependent on perpetrators to seek safety without fear of affecting their visa status.

#### **We recommend that the Australian government:**

- Expand eligibility and access to the family violence provisions to allow women and children who are dependent on perpetrators to seek safety without fear of affecting their visa status.
- Consider the creation of a new temporary visa subclass which gives access to social services, housing and essential healthcare services to all women and children seeking safety from violence.

## **Rights of older women**

Demographic trends show Australia’s population is not only ageing but cultural and linguistic diversity amongst older people is also increasing. Women over 65 account for about 53% of the older population and tend to live longer than men. Still Australia lacks national instruments to protect the human rights



of older people, and older women in particular, against the multidimensional forms of discrimination that they might experience (CEDAW/C/GC/27).

The Australian Government's 8th report contained only a minor reference to older women. Since then, legislative advances have occurred to protect women, or older people, separately. In the absence of an Australian human rights charter, protection against intersecting forms of discrimination (ageism, racism and gender-based discrimination, for instance) remains patchy across states.

The National Plan to Respond to the Abuse of Older Australians was launched in 2019 and ended last year. Whilst the plan was a positive step to place the issue in the government agenda, it has been insufficient. Violence against older women is overlooked but one study suggested that they are more likely than older men to be victims of both intimate partner violence and intergenerational violence (Our Watch 2022).

Unequal wealth accumulation and rising and living costs are also impacting older women differently, with more older women experiencing homelessness in Australia (40% growth from 2011 to 2021, AIHW 2024).

Across all these challenges, Australia lacks consistent data to examine the specific vulnerabilities for migrant and refugee

older women.

### **We recommend that the Australian government:**

- Collect improved, more consistent data on older women's experiences of abuse, violence, and discrimination, including data on ethnic backgrounds or other indicators of higher marginalisation risks.
- Ensure that the upcoming Aged Care Act includes clear mechanisms to protect the human rights of older people, in all their diversity.
- Ensure that reports on the progress of the implementation of the Working for Women strategy include an intersectional lens which considers age as a factor, including progress monitoring for older women from migrant and refugee backgrounds.
- Ensure that the new national plan to respond to the abuse of older Australians adopts an intersectional approach.

## **Disappeared and murdered Indigenous women**

The crisis of disappeared and murdered Indigenous women and girls in Australia continues to be an alarming reflection of systemic violence and neglect toward First Nations peoples. Indigenous women are 34 times more likely to be hospitalised due to family violence<sup>54</sup> and are significantly overrepresented as victims of homicide.<sup>55</sup>

Despite this, their cases often receive inadequate attention from law

---

<sup>54</sup> First Nations-led data research on family, domestic, and sexual violence', media statement Senator Amanda Rishworth, November 2023, <https://ministers.dss.gov.au/media-releases/13016#:~:text=First%20Nations%20women%20and%20children,a%20result%20of%20family%20violence>.

<sup>55</sup> 'How many First Nations women and children are murdered? The figures are shocking – and yet incomplete' (August 2024), *The Guardian*, <https://www.theguardian.com/news/article/2024/aug/15/how-many-first-nations-women-and-children-are-murdered-the-figures-are-shocking-and-yet-incomplete>

enforcement. This ongoing tragedy led to the establishment of a Senate Inquiry<sup>56</sup> to investigate the disproportionate rates of violence against Indigenous women and girls.

While the inquiry was a critical first step, there is a need for immediate and comprehensive systemic change that addresses the root causes of this violence.

**We recommend that the Australian government:**

- Work alongside Indigenous women and organisations to implement the recommendations of the Senate Inquiry.

---

<sup>56</sup> Missing and murdered First Nations women and children, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/FirstNationswomenchildren](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/FirstNationswomenchildren)





