



Australian Government

**Department of the
Prime Minister and Cabinet**

Office for Women

Australia's Submission
answering

Questions on Notice

raised at Appearance before
the Committee on

03 July 2018

1. ISSUES IMPACTING ABORIGINAL AND TORRES STRAIT ISLANDER WOMEN

Aboriginal and Torres Strait Islander women in prison and implementation of the Bangkok rules

- 1.1 The implementation of the Bangkok Rules in Australian prisons in relation to Aboriginal and Torres Strait Islander women prisoners is a matter for states and territories: state and territory governments are responsible for their respective criminal justice systems, including the administration of police, courts and corrections, under Australia's federal system of democracy.
- 1.2 The Commonwealth is committed to supporting the state and territory governments to address the over-representation of Aboriginal and Torres Strait Islander Australians in prison, including ensuring the particular needs of Aboriginal and Torres Strait Islander women in prison are better met.
- 1.3 The Commonwealth's investment through the Indigenous Advancement Strategy's Safety and Wellbeing programme includes funding for specific activities to support Aboriginal and Torres Strait Islander girls and women by addressing their specific experiences of the justice system, as both offenders and victims. This includes crime prevention activities for girls and support for women exiting prison to reintegrate into their families and communities.
- 1.4 The Council of Australian Government's *Prison to Work* Report found there was a need to improve support for Aboriginal and Torres Strait Islander female prisoners. The Commonwealth is working with state and territory governments on a range of projects to respond to this finding. This includes support for funding the co-design of an enhanced model of Adult Through-Care for Aboriginal and Torres Strait Islander Australians exiting prison as well as AUD\$10.6 million over three years for a youth-specific through care model. Both models will include specific consideration of the needs of Aboriginal and Torres Strait Islander women and girls to transition successfully out of prison, break the cycle of offending and reduce their recidivism rates.
- 1.5 The Commonwealth will also consider the findings of the Wiyi Yani U Thangani (Women's Voice's) consultation process, currently being undertaken by the Aboriginal and Torres Strait Islander Social Justice Commissioner (from within the Australian Human Rights Commission, Australia's A status national human rights institution) expected to be delivered in mid-2019. It is anticipated the consultation report will provide recommendations on the specific needs, challenges and aspirations of Aboriginal and

Torres Strait Islander women and girls, including the impact of contact with the justice system on outcomes experienced.

- 1.6 Australia is also implementing alternative sentencing approaches for Aboriginal and Torres Strait Islander offenders, including the involvement of elders in the decision-making process. For example, the Circle Sentencing Program is available for adult Aboriginal defendants in 11 local New South Wales (state) courts, and involves placing the sentencing process into the community. In the Australian Capital Territory, the Circle Sentencing Court has been in operation for over 13 years, with a new program commencing in September 2018 to deal specifically with Aboriginal youth matters.

Aboriginal and Torres Strait Islander children in child protection

- 1.7 The safety and wellbeing of all Australian children is, and will remain, a national priority.
- 1.8 Whilst states and territories have statutory responsibility for their child protection systems, the Australian Government is working to address the underlying drivers that bring Aboriginal and Torres Strait Islander children into contact with the child protection system and to better support families by:
- investing in prevention services;
 - increasing the number of Indigenous organisations delivering services; and
 - increasing the availability and use of data and the evaluation of programs.
- 1.9 All states and territories have a number of initiatives in place or are exploring options for policies to reduce the number of Aboriginal and Torres Strait Islander children in the child protection system.
- For example, the Victorian Aboriginal Child Care Agency's (VACCA) Nugel program is the first of its kind in Australia and involves the Department of Health and Human Services transferring powers for making plans and decisions for some Aboriginal children on child protection orders to VACCA. Nugel then accepts responsibility for decision making and case planning for these children and young people.
- 1.10 Australia is also committed to implementing the Aboriginal and Torres Strait Islander Child Placement Principle which recognises the value of culture and the importance of enabling Indigenous children, families and communities to participate in decisions about the safety and wellbeing of children. The Principle aims, as a priority, to place Aboriginal and Torres Strait Islander children in the care of Aboriginal and Torres Strait Islander people.

2. INTERSECTIONALITY IN POLICY MAKING AND IMPLEMENTATION

- 2.1 The Australian Government recognises that many of the most pressing policy challenges in Australia are complex. For human services, many of these complex problems are both a result of, and contributor to, the experience of multiple and intersecting forms of disadvantage.
- 2.2 The Australian Government Productivity Commission's Inquiry into Human Services recently stated that governments in Australia need to take on stronger stewardship roles to improve coordination, collaboration and integration across a range of human service sectors to improve outcomes for citizens, particularly those experiencing multiple disadvantage.
- 2.3 In addition to a stronger stewardship role, Australian governments are building additional core skills, innovative and flexible approaches that incorporate better systems understanding and analysis, the ability to work better across organisational and jurisdictional boundaries, and more effective engagement of stakeholders and citizens in policy design and delivery to address complex policy challenges.
- 2.4 Improved data and analytics will be critical to addressing intersectionality in policy developments. The Australian Government's Multi-Agency Data Integration Project integrates important data from areas of education, income and taxation, health, migration, social support and families and households for analysis to develop deeper insights into intersectional policy issues and test the effectiveness of government policies, services and programs to address these issues.

3. STERILISATION AND ABORTION - WOMEN WHO LACK THE ABILITY TO CONSENT

Sterilisation for those who lack capacity to consent

- 3.1 The Australian Government is committed to respecting the rights of all persons to physical integrity and reproductive rights.
- 3.2 The Australian Government does not require sterilisation of people with disability under any circumstances.
- 3.3 A medical procedure for the purposes of sterilisation may only occur in Australia with the person's consent, or with authorisation from a court or guardianship tribunal if the person is unable to give valid consent for reasons of incapacity.

- 3.4 The Australian Guardianship and Administration Council publishes national data on adult sterilisation approvals annually.
- From 1 July 2016 to 30 June 2017, ten adult sterilisations were approved across Australia.
 - For the six month period of 1 January – 30 June 2016, two adult sterilisations were approved across Australia.

Abortion for those who lack capacity to consent

- 3.5 The authorisation of medical procedures for persons who lack capacity to consent on their own behalf is governed by state and territory guardianship legislation. This includes special health matters, such as abortions.
- 3.6 Consent for such procedures generally necessitates an order of the relevant state tribunal. Such consent is only provided in specified circumstances, to ensure the protection of the affected person’s rights and interests.
- 3.7 Tribunal decisions can then be appealed to the relevant state court, which has the power to review such decisions, and set them aside or make alternative orders in substitution.

4. FAMILY COURT MERGER WITH FEDERAL CIRCUIT COURT

- 4.1 On 30 May 2018, the Attorney-General of Australia announced the Australian Government’s intention to bring forward legislation for structural changes to the federal courts (excluding the High Court of Australia).
- 4.2 Under the proposed legislation, a new Federal Circuit and Family Court of Australia (FCFCA) will be established from 1 January 2019 through the amalgamation of the Federal Circuit Court of Australia and the Family Court of Australia. A new Family Law Appeal Division in the Federal Court of Australia will also be established to hear all appeals in family law matters from the FCFCA (and some appeals from the Family Court of Western Australia).
- 4.3 The current structural inefficiencies of the federal family courts are at a point where the Australian Government needs to act swiftly and decisively to improve outcomes for Australian families. This is why the Government is seeking to implement a new federal courts structure to commence operation on 1 January 2019.
- 4.4 The Government’s motivation in making these structural changes is to improve access to justice for Australian families. These reforms will significantly improve the efficiency of the family law system; reduce the backlog of matters before the family law courts; and drive faster, cheaper and more consistent resolution of disputes for Australian families.

The Government estimates the reforms will resolve an additional 8,000 family law matters each year.

4.5 The Australian Law Reform Commission (ALRC) review of the family law system is due to report in March 2019: however, the ALRC is not directly considering the structure of the federal courts.

4.6 The legislative reforms will complement the ALRC review of the family law system: any ALRC recommendations relating to court processes that merit implementation will be more easily implemented in the new, simplified court structure, noting that the courts will also undertake a review of court rules to consolidate and update their rules with a view to greater harmonisation of procedures.

5. GENDERED POLICY DEVELOPMENT AND IMPLEMENTATION

Whole of Government

5.1 The Federal Office for Women exists to advance gender equality outcomes in Australia and internationally. The Office is situated in the Department of the Prime Minister and Cabinet.

5.2 Consistent with the role of other areas within the Department of the Prime Minister and Cabinet, the Office for Women works with departments and agencies across government to ensure that their policies and programs support government priorities, including those associated with gender equality.

Gendered approach to addressing violence against women

5.3 The Australian Government's position is that there is a clear link between violence towards women, and attitudes of disrespect and gender inequality.

5.4 Women experience far more violence (physical and sexual) perpetrated by a partner and this is more likely to occur within their own homes. Men experience more physical violence perpetrated by strangers, friends and employees and this is more likely to be a single incident occurring in a public place.

5.5 There is also considerable evidence that violence by a partner has a greater impact on women:

5.6 Hospitalisations: The Australian Institute of Health and Welfare (AIHW) National Hospital Morbidity Database (NHMD) for 2012-13 recorded that, of admissions due to assault cases where the perpetrator was identified as a spouse or domestic partner, 2,816 were female and 521 were male. More recent unpublished data shows similar findings.

- Anxiety or fear: 45.9 per cent of women and 31.5 per cent of men who have experienced current partner violence have experienced anxiety or fear for their personal safety due to their experience. Where a previous partner was the perpetrator, the figure is 64.7 per cent for women and 29.2 per cent for men.
 - Anxiety or fear all/most of the time: 32.6 per cent of women and 8.4 per cent of men who have experienced violence by a previous partner report experiencing anxiety or fear ‘all of the time or most of the time’
- 5.7 The Australian Government recognises that other factors contribute to violence against women. For example, in approximately half of the most recent incidents of physical (48.8 per cent) and sexual (50.3 per cent) assault (in the last 10 years) perpetrated against women by men, alcohol or another substance was identified as a contributing factor by the victim.
- 5.8 The Australian Government funds a range of programs that aim to address many factors that contribute to violence, including:
- financial management, emergency relief and microfinance to help improve people’s financial capacity and capability
 - the Cashless Debit Card, which helps minimise the harmful use of alcohol and illicit drugs
 - a range of family and relationship services to support families during key transition points such as the birth of a child.
- 5.9 The services funded through the National Plan to Reduce Violence against Women and their Children (2010-2022) and the 2015 Women’s Safety Package complement (but do not replace) these other social services funded by the Australian Government.

6. CONSULTATION ON AUSTRALIA’S DEFENCE EXPORT STRATEGY

- 6.1 The Commonwealth consulted widely in the development of Australia’s Foreign Policy White Paper, including considering over 9,200 written submissions. Further, The Commonwealth has made a public commitment to maintain a strongly consultative approach before, during and after trade negotiations and seek stakeholder input to our negotiations and policy development.
- 6.2 While the Commonwealth’s Defence Export Strategy 2018 was developed with extensive consultation, it is a complex policy environment with many moving parts. Therefore, the Commonwealth has undertaken to continue the collaborative approach to consultation to refine policies and initiatives to ensure they are most effective during their implementation.

- For example, the Commonwealth is currently undertaking a nation-wide consultation to seek a diversity of women’s perspectives on the vision, priorities and context of Australia’s next National Action Plan, the primary mechanism for implementing the UN Security Council Resolutions on Women, Peace and Security.