

AWAVA

Australian Women Against Violence Alliance

2018 CEDAW Shadow Report – Violence Against Women

A non-governmental perspective on Australia's implementation of the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)

70th Session

Prepared by the Australian Women Against Violence Alliance with contributions from other NGOs and civil society.

Contributors:

Australian Women Against Violence Alliance (AWAVA), representing 20 peak bodies and organisations and over 200 supporters across Australia. <https://awava.org.au/>

Harmony Alliance: Migrant and Refugee Women for Change, representing 47 organisations working for migrant and refugee women, and 18 individual members across Australia. <http://harmonyalliance.org.au/>

National Family Violence Prevention Legal Services Forum representing 14 organisations at over 35 locations across Australia <http://www.nationalfvpls.org/>

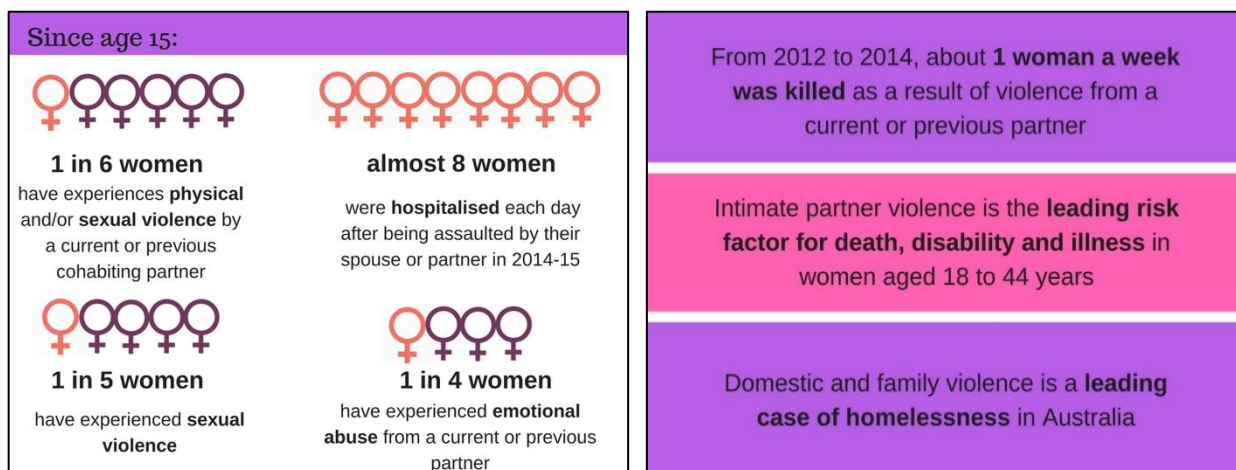
Refugee Council of Australia representing 196 organisational and 372 individual members. <https://www.refugeecouncil.org.au/>

Contents

1. Introduction: Prevalence of Violence against Women in Australia	4
2. Implementation of the National Plan to Reduce Violence against Women and their Children	5
2.1. Lack of Adequate and Sustainable Funding	5
2.1.1. Funding for specialist women’s services.....	6
2.2. Monitoring and Evaluation Mechanism of the National Plan	6
2.3. Lack of consultative mechanism with civil society	7
2.4. Lack of Focus on Sexual Violence in the National Plan and beyond	8
3. Addressing Violence against Diverse Groups of Women	10
3.1. Aboriginal and Torres Strait Islander Women.....	10
3.1.1. Family Violence	10
3.1.2. Punitive welfare policies.....	11
3.1.3. Incarceration rates	11
3.2. Women with Disabilities	12
3.3. Women from Culturally and Linguistically Diverse (CALD) Backgrounds	13
3.3.1. Family violence.....	13
3.3.2. Intersection of family violence and migration status.....	14
3.3.3. Refugee, asylum-seeking and stateless women and girls.....	15
3.3.4. Asylum-Seeking Women in Immigration Detention.....	15
3.4. Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Communities	16
3.5. Women in Rural, Regional and Remote Communities	17
4. Women’s Experience of Homelessness and Housing Insecurity	18
5. Trafficking and sexual exploitation	20
6. Access to justice and remedies	22
6.1. Access to Justice for Aboriginal and Torres Strait Islander Women and Migrant and Refugee Women within Family Law System	22
6.2. Family Violence Prevention Legal Service	24
6.3. Emerging Issues: Justice Responses to Technology-Facilitated Abuse.....	25
Annex: Summary of Recommendations	27

1. Introduction: Prevalence of Violence against Women in Australia

It is widely recognised that family, domestic and sexual violence is an endemic problem in Australian society.ⁱ A feminist conceptualisation of violence against women locates it as occurring within a patriarchal society where male dominance and privilege are normalised. Sexual and gender-based violence against women needs to be understood in the context of oppression and privilege arising from the intersection of racism, colonisation, classism, sexual orientation and gender identity, ethnicity, nationality, religion, dis/ability and age.



In 2018 a report was published analysing 152 domestic and family violence (DFV) related homicides (between 01/07/10 and 30/06/14), the large majority of which were perpetrated by men against women.ⁱⁱ

Despite improved data collection, there are still some data gaps. At present there is limited information on:

- emotional, verbal, psychological and financial abuse;
- violence committed by children and adolescents against parents;
- emerging forms of sexual violence, cyber stalking and online sexual harassment;
- certain cultural practices that may constitute family, domestic and sexual violence, such as forced marriage and female genital mutilation;
- the sociodemographic characteristics of victims and perpetrators;ⁱⁱⁱ
- types of family violence perpetrated against LGBTI people outside of the IPV context.^{iv}

RECOMMENDATIONS

That the Australian Government

1.1.1. Ensure continuous investment into robust and inclusive data collection in relation to violence against women.

2. Implementation of the National Plan to Reduce Violence against Women and their Children

List of issues and questions in relation to the 8th periodic review:

- a) Legislative framework;
- b) Access to justice and Remedies;
- c) Gender-based violence against women.

Articles 1, 3, 4, 5, 13 of CEDAW

BACKGROUND

The National Plan to Reduce Violence against Women and Their Children 2010-2022 (National Plan) is a major policy framework that has the potential to help achieve gender equality and end violence against women. It acts as the primary Australian policy on reducing sexual violence and DFV. It consists of four Action Plans (each covering three years) that are intended to build a set of defined and practical steps to respond to and prevent violence against women and their children.

POSITIVE DEVELOPMENTS

The National Plan has underpinned the development of flagship organisations such as 1800RESPECT (counselling and referral service)^v, Our Watch (primary prevention)^{vi}, ANROWS (research)^{vii} and DV Alert (training on DFV for frontline workers).^{viii} The National Plan has laid the groundwork for primary prevention initiatives including Respectful Relationships programs in schools, and it is important that this work continues in a way that embeds gender equality principles within an intersectional approach.

We also welcome the establishment of the Australian Domestic and Family Violence Death Review Network.^{ix} There are still limitations to comprehensive data collection as a) three jurisdictions do not have permanent DFV death review processes and b) data is limited to intimate partner violence homicide cases only.^x

REMAINING CHALLENGES

2.1. Lack of Adequate and Sustainable Funding

The two most recent federal budgets^{xi} have not introduced any substantive funding increases. With greater awareness about DFV and sexual violence, services are experiencing greater demand. For instance, demand for 1800RESPECT has risen by 50% since March 2017.^{xii} Similarly, other specialist women's services and specialist housing and homelessness providers are struggling to meet the increasing service demand.

Despite the outcomes of the Second Action Plan evaluation and commitments in the Third Action Plan, diverse groups of women such as Aboriginal and Torres Strait women, CALD women^{xiii} and women with a disability are not receiving sufficient funding to meet their needs.

2.1.1. Funding for specialist women's services

Over the last 40 years^{xiv}, specialist women's services have been established in response to the need for comprehensive and trauma-informed support. Guided by women-centred models of practice, these services include organisations working to address domestic and family violence (including refuges and shelters), sexual assault services and rape crisis centres, and organisations working with diverse groups of women on issues of VAW^{xv}. While governments have committed to strengthening support services to end VAW, efforts at the national level under Action Plans One, Two and Three have not sufficiently supported specialist women's services to meet the challenges of maintaining best practice service models while responding to rising demand.

RECOMMENDATIONS

That the Australian Government

2.1.1. Ensure continuous, sustainable and adequate funding of positive initiatives developed as a part of the National Plan such as ANROWS, Our Watch and The Line, DV Alert, and 1800RESPECT, as well as the six National Women's Alliances.

2.1.2. 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.

2.1.3. Proactively build capacity for effective gender equality and violence prevention education to children and young people.

2.2. Monitoring and Evaluation Mechanism of the National Plan

We have concerns regarding the lack of broader consultation and feedback in relation to the evaluation of the National Plan and its ability to ensure discussions, reporting and decision-making that is transparent and meeting the needs of women and children affected by violence. A robust monitoring and evaluation mechanism would allow for the impact of activities under the National Plan to be measured, gaps to be assessed and performance to be improved for greater future results.

The development, implementation and evaluation of Action Plans requires greater transparency. For example, submissions made regarding the development of the Second Action Plan were not made public, while the Evaluation of the Second Action Plan was not released until six months after the Third Action Plan commenced. The development of the Third Action Plan did not include an open submission phase of consultations.

RECOMMENDATIONS

That the Australian Government

2.2.1. Ensure there is an independent mechanism to monitor and evaluate the implementation of the National Plan and adequate funding of civil society to engage in this process.

2.3. Lack of consultative mechanism with civil society

We express concern regarding the National Plan's ability to ensure regular, equal and meaningful consultation and engagement with civil society. The dissolution of the National Plan Implementation Panel (NPIP) which was designed as a key forum to advise Ministers of emerging issues and inform the evaluation of the National Plan and included government and NGO representatives has significantly limited forums that are provided for ongoing and meaningful consultation and engagement with civil society.

We commend the development of the COAG Advisory Panel on Reducing Violence against Women and their Children, which was a significant step to support a number of proposed consultative mechanisms and forums. We also welcome the publishing of the COAG Advisory Panel's reports. However, with the publication of its final reports, this Panel concluded its work and was wound up. Although there are some issue-specific Working Groups with civil society members, there is now no forum through which civil society can be consulted on the National Plan as a whole.

RECOMMENDATIONS

That the Australian Government

2.3.1. 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.

- o This should ensure transparency and inclusivity with civil society, including representatives of Aboriginal and Torres Strait Islander women, CALD women, women with disability, young women, mature age women, women in prison, women from regional, rural and remote areas and LGBTIQ people, domestic, family and sexual violence services and specialists (including Aboriginal and Torres Strait Islander Community Controlled Organisations), other women's services, academics, practising lawyers and/or women's legal specialists.

2.4. Lack of Focus on Sexual Violence in the National Plan and beyond

List of issues and questions in relation to the 8th periodic review:

- a) Access to justice and Remedies;
- b) Gender-based violence against women.

Articles 10 of the CEDAW

BACKGROUND & POSITIVE DEVELOPMENTS

While the rates of sexual violence are high, it is widely recognised that there is extensive under-reporting of sexual violence. The Australian Centre for the Study on Sexual Assault found that high non-reporting rates make it extremely difficult to estimate the prevalence of sexual assault. There is no single data source in relation to the extent of sexual assault and abuse.^{xvi}

The criminal justice system remains the primary institution for responding to sexual violence offences, yet it must improve to provide access to justice for victims/survivors. As such, reforms have been made to sexual assault law and policy to redress some of the shortcomings of the system to improve the situation of sexual assault survivors in the criminal justice system and to increase the low reporting rates and poor practices that lead to the unnecessary attrition of sexual assault cases.^{xvii}

In 2017 a survey across Australian universities was conducted to identify the extent of sexual harassment and assault on university grounds. The *Change the Course* report, produced as a result, shows that in 2015/16, 51% of students reported that they had been sexually harassed at university and 9% of students surveyed reported that they had been sexually assaulted at university.^{xviii} The report also found that female students, LGBTI students, Aboriginal and Torres Strait Islander students, CALD students and students with disabilities are more likely to be sexually harassed or assaulted than other students. The majority of students did not report the harassment or assault to the university out of fear they would not be taken seriously.

REMAINING CHALLENGES

- Reforms have not translated into significant change at an operational level and shortcomings of the system continue to undermine and restrict survivors/victims ability to access protection, redress and justice for these crimes.^{xix}
- Reporting rates remain low, attrition rates are high and low conviction rates persist.^{xx}
- Sexual violence remains subsumed under the definition of domestic and family violence, thus again contributing to the invisibility of the issue.
- Recommendations from major reports about sexual assaults in universities have not yet been implemented.
- Sexual violence has also been identified as one of the Third Action Plan priorities, but little progress has been made.

RECOMMENDATIONS

That the Australian Government

2.4.1. Establish an independent, expert led taskforce to track, assess and publicly report on universities' and residences' measures to prevent, and improve responses to sexual violence.

2.4.2. Together with governments and funding bodies at all levels, provide greater financial and institutional support to effective local and state based organisations and programs working in the area of sexual violence prevention, in line with governments' commitments under the National Plan.

2.4.3. Resource and support specialist women's services in their diversity across the full range of service types and target groups to assist and advocate for women through the justice system and legal processes in relation to sexual violence.

3. Addressing Violence against Diverse Groups of Women

POSITIVE DEVELOPMENTS

The Third Action Plan commits to addressing violence against diverse groups of women such as Aboriginal and Torres Strait Islander women, CALD women and women with disability.^{xxi} However, diverse groups of women still remain at a higher risk of domestic and family violence and sexual assault. We recognise that gender-based violence against women needs to be understood in the context of oppression and privilege arising from the intersection of racism, colonisation, classism, sexual orientation and gender identity, ethnicity, nationality, religion, dis/ability and age.

REMAINING CHALLENGES

3.1. Aboriginal and Torres Strait Islander Women

List of issues and questions in relation to the 8th periodic review:

- a) Legislative framework;
- b) Access to justice and Remedies;
- c) Gender-based violence against women;
- d) Aboriginal and Torres Strait Islander women;
- e) Women in detention

Articles 1, 3, 13, 14 of the CEDAW

3.1.1. Family Violence

Aboriginal and Torres Strait Islander Women are overrepresented in the DFV and sexual violence statistics. They are:

- 45 times more likely to experience DFV than non-Indigenous women;^{xxii}
- 32 times more likely to be hospitalised as a result of DFV;^{xxiii} and
- up to 3.7 times more likely than other women to be victims of sexual violence;^{xxiv}
- 1 in 2 Indigenous Australians report image-based abuse.^{xxv}

The high levels of family violence against Aboriginal and Torres Strait Islander women are inherently linked to the ongoing impacts of colonisation, including the continued dispossession from cultural lands, the breakdown of traditional social, cultural and legal institutions and the ongoing experience of discrimination and marginalisation that results in significantly lower health, education and employment outcomes for Aboriginal and Torres Strait Islander people. In addition, Aboriginal and Torres Strait Islander women's experience of social and cultural marginalisation, racism, and lack of culturally sensitive services also act as barriers to accessing support services.

3.1.2. Punitive welfare policies

With the introduction of cashless debit cards^{xxvi} by the Department of Human services, new barriers emerge for Aboriginal and Torres Strait Islander women in the context of family violence. Cashless debit cards are currently being piloted in some regions of Australia with a high amount of Indigenous population. They were introduced as a way to reduce alcohol consumption, drug use and gambling. Anecdotal evidence suggests that with no access to cash, women are not able to leave violent relationships and relocate. Relocation to some regions may also trigger extended waiting periods for receiving social support payments.

The 2018-19 Federal budget introduced a new scheme called 'Encouraging lawful behaviour of welfare recipients'. Under the scheme, the Government will be able to make compulsory deductions from the welfare payments of serial fine defaulters who have outstanding State and Territory court-imposed fines. The Government will also be able to suspend or cancel the welfare payments of individuals who have outstanding State and Territory arrest warrant for indictable criminal offenses. We are concerned that this measure can disproportionately affect women who are fleeing or living with family violence, in particular Aboriginal and Torres Strait Islander women and women with an intellectual disability.

3.1.3. Incarceration rates

Aboriginal and Torres Strait Islander women in Australian prisons make up 34 per cent of the adult female prison population^{xxvii} and are the fastest growing prison population. The imprisonment rate of Aboriginal and Torres Strait Islander women has increased 148 per cent since 1991.^{xxviii} They are currently imprisoned at 21 times the rate of non-Indigenous women.^{xxix}

Research indicates the generally petty nature of most offending. Offences committed by Aboriginal and Torres Strait Islander women are commonly those associated with extreme poverty, such as non-payment of fines, shop-lifting, driving and alcohol related offences and 'welfare fraud'.^{xxx}

Larger numbers of Aboriginal and Torres Strait Islander women are coming into prison as a result of high rates of family violence, high levels of unemployment, poverty and homelessness.^{xxxi} We are also concerned about instances of women dying from family violence related injuries while in custody being denied adequate medical attention.^{xxxii}

Incarceration removes all sense of power and control that women have over their bodies. The overwhelming majority of Aboriginal and Torres Strait Islander women in prison are survivors of physical and sexual violence.^{xxxiii} Overall, between 57 per cent and 90 per cent of all (Indigenous and non-Indigenous) women in prison have been the victims of sexual abuse or other forms of violence in childhood.^{xxxiv}

Enormous trauma is added through the ritual of strip searches. For many “contact” visits, a woman must go into a room, take off her clothes in front of officers, stand naked and be “inspected.” For many women, especially Aboriginal and Torres Strait Islander women, the humiliation is too much and they withdraw from outside contact. This is particularly concerning where the imprisoned woman is a mother and is thereby prevented from spending time with her child or children.

RECOMMENDATIONS

That the Australian Government

3.1.1. Ensure adequate and sustainable funding for Aboriginal community-led organisations, Aboriginal Family Violence Prevention Legal Services, and the National Aboriginal and Torres Strait Islander Women Alliance.

3.1.2. In developing new initiatives undertake a substantial gender analysis to ensure that proposed policies do not create further obstacles for disadvantaged women to live free of violence.

3.1.3. Undertake a thorough examination of the issues surrounding the over-representation of Aboriginal and Torres Strait Islander women in the Australian justice system.

3.2. Women with Disabilities

List of issues and questions in relation to the 8th periodic review:

- a) Legislative framework;
- b) Access to justice and Remedies;
- c) Gender-based violence against women;
- d) Women and girls with disability

Articles 10, 14 of the CEDAW

REMAINING CHALLENGES

Women with disabilities face systemic barriers in gaining access to services and accommodation, and receiving services which are not adjusted to their individual needs.^{xxxv} Women with disabilities in Australia experience additional violence because of their disabilities and encounter more barriers when they try to protect themselves and seek justice.^{xxxvi} Data on this area is lacking, but disability support services report that “women and girls with disabilities were 37.3% more likely than women and girls without disabilities to experience some form of intimate partner violence, with 19.7 percent reporting a history of unwanted sex compared to 8.2 percent of women and girls without disabilities.”^{xxxvii} Twenty-two per cent of women and

girls with disabilities who had made contact with service provider respondents in 2012 identified as having been affected by violence.^{xxxviii}

Women with Disabilities Australia has developed the Stop the Violence Project, the recommendations of which need to be implemented by government to address VAW against women with disability.^{xxxix}

In addition, parents with an intellectual disability are ‘disproportionately represented in child protection services and care proceedings’ and have high rates of child removal.^{xi} Discriminatory practices, misconceptions, lack of awareness and training on disability create significant disadvantages for people with disability in the legal system.^{xii} During separation, parental disability may negatively affect the orders made under the Family Law Act. Often, even in situations of family violence, children are removed from mothers with disability and given into the care of abusive father.^{xiii} These parenting orders are guided by a misconception that disability has a negative impact on parenting capacity.^{xiii}

RECOMMENDATIONS

That the Australian Government

3.2.1. Implement the recommendations and programs presented in the Women with Disabilities Australia (WWDA) Stop the Violence Project reports.

3.3. Women from Culturally and Linguistically Diverse (CALD) Backgrounds

List of issues and questions in relation to the 8th periodic review:

- a) Legislative framework;
- b) Access to justice and Remedies;
- c) Gender-based violence against women;
- d) Refugee, asylum-seeking and stateless women and girls
- e) Women in detention

Articles 1, 3, 9, 11, 12, 14 of the CEDAW

3.3.1. Family violence

Despite gaps in research about the prevalence of family violence for women from migrant and refugee backgrounds, it is well established that CALD women are less likely to seek assistance in situations of family violence due to compounding barriers such as isolation of living in a new country, community pressures and expectations, higher levels of financial dependence on perpetrators or community, lack of knowledge of rights and available services; and fear of deportation and removal of children or perpetrator.^{xiv;xlv} Women on temporary visas including those seeking asylum are ineligible for many government services, leaving many

victims/survivors financially dependent on a perpetrator (partner or other family member), and less able to take steps towards establishing a life free of violence.

Women with disabilities or their children with disabilities who are not permanent residents are not eligible for the National Disability Insurance Scheme, which provides necessary support. This is particularly problematic when disability is a result of family violence.

Those with limited English require access to professional and appropriate interpreting services. While some service providers are eligible for the Government's free Interpreting Service, others are forced to make difficult choices about paying for interpreting, in the context of limited funding.

Perpetrators from culturally and linguistically diverse backgrounds are sometimes unable to participate in Men's Behaviour Change programs if their English language skills are not sufficient. Cultural considerations must be taken into account when seeking to help perpetrators uncover the root of violent behaviour and understand its effect on family and community.

3.3.2. Intersection of family violence and migration status

We commend the government on maintaining the family violence provisions in the migration legislation, which are designed to enable partners of Australian citizens or of primary applicants for permanent residency to stay permanently in Australia after the relationship has broken down due to intimate partner violence. However, we are concerned by the limitation of this process:

- family violence is only recognised when committed by an intimate partner.
- access to family violence provisions is available for a limited list of visas only.
- the process involves assessment of the genuineness of relationships prior to assessment of allegations of family violence. This is highly problematic, as for instance, lack of joint financial accounts can be a manifestation of DFV and not evidence of a non-genuine relationship.
- the definition of family violence as used by the Department of Home Affairs does not fully encompass all manifestations of violence.

Refugee women on temporary protection visa (TPV) or Safe Haven Enterprise Visa (SHEV) may find themselves in a precarious position in the context of family violence. When a woman is a secondary applicant with no protection claims on her own, in case of the family violence disclosure she finds herself in a disadvantaged situation. She faces a choice to either remain in an abusive relationship or return to her country of origin and potentially face reprisals and human rights violations. A similar situation may occur after the expiry of TPV or SHEV at the stage of reapplying.

International students have very limited access to health and family violence services due to their visa status. International students are not eligible to access family violence provisions under the migration law. International students are not eligible for relevant Centrelink support

in situations of family violence. They have difficulty accessing refuges/shelters, as services' requirements conflict with student visa requirements.^{xlvi}

3.3.3. Refugee, asylum-seeking and stateless women and girls

Refugee and asylum-seeking women in Australia also experience disadvantages. A number of policy changes in the area of social support are limiting women's capacity and financial independence, including changes to the Status Resolution Support Service (SRSS) program. In particular, in the context of family violence, women applying for income and casework support are no longer eligible so long as their other ('substantive') visa is valid (often for years). Anecdotal evidence suggests cases of pregnant women who fled family violence finding themselves without access to any money or appropriate health care for another two years because their partner visa was still in effect. In general women on temporary protection visa have fewer rights and more limited access to support services, compared to those on permanent protection visa.

3.3.4. Asylum-Seeking Women in Immigration Detention

There has been little progress with the resettlement of refugees held in the offshore processing centres on Manus and Nauru. The protracted situation for women and girls currently on Nauru creates further risks of sexual and gender-based violence. There is no access to appropriate sexual and reproductive healthcare. Abortions are criminalised in Nauru. Asylum-seeking women and girls remain under the risk of sexual and gender-based violence while in detention.

Onshore immigration detention also has a negative impact on women and girls. Currently, there is no limit on the length of time in detention (with serious impacts on mental health of people in detention); there is no legislation against detaining children; and the current detention monitoring system is not transparent. None of the recommendations of the monitoring bodies are binding. In addition, none of the recommendations to close offshore immigration detention have been fulfilled.^{xlvii}

RECOMMENDATIONS

That the Australian Government

3.3.1. End the mandatory detention of asylum seekers and refugees in offshore facilities.

3.3.2. Ensure that age, gender and diversity are mainstreamed in the to-be-adopted Global Compact on Refugees and Global Compact for Safe, Orderly and Regular Migration.

3.3.3. Ensure that migration rules and eligibility requirements for support services do not disempower victims/survivors of violence or discourage them from leaving violent relationships.

3.3.4. Widen the eligibility for the Free Interpreting Service to ensure that interpreting services are always available to those who need them.

3.4. Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Communities

List of issues and questions in relation to the 8th periodic review:

- a) Legislative framework;
- b) Access to justice and Remedies;
- c) Gender-based violence against women;

Articles 1, 3, 14 of the CEDAW

REMAINING CHALLENGES

People who identify as lesbian, gay, bisexual, transgender and intersex and who are experiencing family violence often remain invisible. The family violence experiences of LGBTI people and the barriers they face in obtaining services are distinct from those of other victims of family violence.^{xlviii}

LGBTI people are neither identified as a priority cohort of the National Plan, nor is there sufficient research into their experiences of family violence.^{xlix} However, the existing evidence suggests that same sex couples experience the same or similar levels of family violence, domestic violence, and intimate partner violence as heterosexual couples.¹ For instance, 32.7% of LGBTI Australians have reported experiences of being in a relationship where their partner was abusive.ⁱⁱ One third of this group reported having been physically injured, but only 20% had reported this to police. Transgender people may experience significantly higher levels of emotional, sexual or physical abuse from a partner or ex-partner.ⁱⁱⁱ

Despite the prevalence of DFV, LGBTI people are less likely to find support services that meet relevant needs, less likely to identify the occurrence of DFV in relationships and less likely to report it to the police or to seek support from services. The level of awareness of LGBTI experiences and needs is limited among police, in the courts, among service providers and in the community generally. As a result, LGBTI people can feel invisible in the family violence system.^{liii}

RECOMMENDATIONS

That the Australian Government

3.4.1. Provide sustainable and adequate funding for the development of LGBTI-specific resources, programs and targeted community education campaigns and identification of research priorities and effective prevention strategies.

3.4.2. Mainstream services should be also trained to adopt inclusive practices and provide appropriate support.

3.4.3. Invest in more research about domestic and family violence in the LGBTIQ community.

3.5. Women in Rural, Regional and Remote Communities

List of issues and questions in relation to the 8th periodic review:

- a) Legislative framework;
- b) Access to justice and Remedies;
- c) Gender-based violence against women;
- d) Rural women

Articles 1, 3, 14 of the CEDAW

REMAINING CHALLENGES

Women living in rural or remote areas are also at a higher risk of experiencing domestic violence.^{liv} Saunders' recent research into sexual harassment in the workplace in rural, regional and remote locations has found that of 84 rural women interviewed, 73% reported having experienced unwelcome sexualised behaviour in the workplace.^{lv}

For women experiencing family violence there are a number of barriers to obtain access to justice. They range from a lack of appropriate and accessible support services to a lack of transport, compounding barriers to safety.^{lvi} Furthermore, women experiencing family violence are disadvantaged by a lack of local access to specialist Magistrates' Courts including the Family Violence Division.^{lvii}

Other issues in courts include a lack of mediation services, poor security, and a lack of separate waiting areas or client interview rooms, safe spaces for victims of violence, and video-conferencing facilities in smaller regional courts.^{lviii} With limited telecommunications and lack of connection to public services, rural and regional women are at risk of poorer health outcomes and have greater vulnerability to family violence.^{lix}

RECOMMENDATIONS

That the Australian Government

3.5.1. Ensure that women in rural, regional and remote areas have equal access to culturally safe, specialised support services, including legal support, access to court facilities, transport and telecommunications.

4. Women's Experience of Homelessness and Housing Insecurity

List of issues and questions in relation to the 8th periodic review:

- a) Legislative framework;
- b) Access to justice and Remedies;
- c) Gender-based violence against women;
- d) Aboriginal and Torres Strait Islander women;
- e) Rural women;
- f) Women and girls with disability;
- g) Refugee, asylum-seeking and stateless women and girls.

Articles 4, 14 of the CEDAW

BACKGROUND

Family violence is the single biggest driver of homelessness in Australia. In 2016–17 there were 72,000 women, 34,000 children and 9,000 men seeking homelessness services due to family violence^{lx}, and 40% of all people assisted by specialist homelessness services in this period were seeking help because of family violence.^{lxi} In the year 2014-2015, 2,800 women facing family violence were turned away from refuges^{lxii}, while Homelessness Australia reports that 250 people are turned away from homelessness services every day.^{lxiii} Rates of homelessness and demand for services continue to rise.

REMAINING CHALLENGES

Women experiencing multiple and intersecting forms of marginalisation face particular and acute housing disadvantages. Aboriginal and Torres Strait Islander women are also more likely to experience discrimination in the housing market and are less able to find adequate and appropriate housing.^{lxiv} ^{lxv} Women with disabilities also experience multiple forms of disadvantage, which increases their risk of homelessness. These include an increased risk of domestic violence, high rates of unemployment and experiences of gendered income inequality, and lack of access to adequate and affordable housing.^{lxvi} Women who are on temporary visas, sponsored migrants and international students in Australia cannot access social housing due to residency requirements, and face other barriers.^{lxvii}

The Third Action Plan has indicated a commitment to increase the social housing stock, yet few steps have been taken to fulfil this commitment.

The new Housing and Homelessness Agreement (NHHA) has been budgeted for in 2018. However, we remain concerned that despite significantly increasing demand, there is no significant increase in funding, nor is there a gender-responsive approach to housing and homelessness policy.^{lxviii}

RECOMMENDATIONS

That the Australian Government

4.1.1. Invest in social (public and community) housing infrastructure

4.1.2. Ensure that the new National Housing and Homelessness Agreement includes reporting and accountability measures, which should include the improvement of housing options for women escaping violence as performance indicators for the Agreement;

4.1.3. Ensure that specialist services demonstrating expertise in the diverse housing needs and experiences of women are prioritised and adequately funded under the NHHA and that there is clarity in the specific funding allocations for specialist women's services funding under general funding;

4.1.4. Consider the inclusion of gender equity as criteria when selecting tenders for homelessness and housing services;

4.1.5. Ensure adequate and sustainable funding to meet demand for homelessness services;

4.1.6. Address and meet the specific needs of diverse groups of women such as Aboriginal and Torres Strait women, women with a disability, older women, women from culturally and linguistically diverse backgrounds, women in rural, regional and remote areas, and women who identify as LGBTIQ. Ensure that crisis accommodation is accessible and culturally safe.

5. Trafficking and sexual exploitation

List of issues and questions in relation to the 8th periodic review:

- a) Trafficking and exploitation of prostitution

Article 6 of the CEDAW

BACKGROUND

It has been recognised that women and children are more likely to be survivors of trafficking. The Australian Federal Police (AFP) have referred 254 people to the Australian Government funded Support for Trafficked People Program (STPP) since 2009. Of the people referred, 224 were women, and 117 of these women were exploited in the Australian sex industry.^{lxi}

Women identified/screened as being trafficked are supported through the Human Trafficking Visa Framework (HTVF) and are provided a 45-day Bridging Visa F (BVF). They are also referred to the Support for Trafficked People Program (STPP).^{lxx} BVF can be extended for another 45 days or longer while a victim of trafficking is assisting in criminal justice process. If after the 45 days, women are unwilling or unable to assist AFP in criminal justice proceedings they are exited from the STPP which means they do not have access to the HTVF. This leaves women in vulnerable situations. While they may have access to other visas including claiming refugee status and complementary protection,^{lxxi} anecdotal evidence suggests high rates of visa refusals. There is also a lack of recognition from the immigration authorities that women who have survived trafficking may face repercussions, violence and re-exploitation upon return to the countries of origin.

Currently, a pilot is running to enable victims of forced marriage to access up to 200 days of support through the STPP without being required to contribute to a criminal investigation or prosecution.^{lxxii}

REMAINING CHALLENGES

- Data collection is still a gap in this area.
- The Government has committed additional resources to other forms of slavery, including establishing a Migrant Taskforce and a Labour Exploitation Working Group, however there are concerns victims are being screened as a migration and/or visa issue rather than a human rights violation.
- In 2017, 2 out of 4 anti-trafficking organisations, Project Respect and Scarlet Alliance were defunded. Project Respect is the only organisation in Australia providing holistic support to survivors, particularly women who were unable to access the STPP.^{lxxiii}

- The Human Trafficking Visa Framework is rooted in the dependency on a contribution to criminal justice process or investigation for the support services to be provided to the survivor.^{lxxiv}

RECOMMENDATIONS

That the Australian Government

5.1.1. De-link access to the Support for Trafficked People Program from compliance with criminal investigations to enable survivors receive the support necessary to recover from their experiences.

6. Access to justice and remedies

List of issues and questions in relation to the 8th periodic review:

- a) Legislative framework;
- b) Access to justice and Remedies;
- c) Gender-based violence against women;
- d) Aboriginal and Torres Strait Islander women;
- e) Refugee, asylum-seeking and stateless women and girls.

Article 4, 14, 15 of the CEDAW Convention

The legal system is often a crucial part of women's and children's journey out of violence. But despite the National Plan including improved outcomes for women and children survivors of violence within the justice system, we are concerned that this is not being adequately prioritised and translated into practice. The family law system and other intersecting systems like child protection or migration are often complex, and they create more barriers for Aboriginal and Torres Strait Islander women and CALD women.

6.1. Access to Justice for Aboriginal and Torres Strait Islander Women and Migrant and Refugee Women within Family Law System

BACKGROUND & POSITIVE DEVELOPMENTS

A number of reports have highlighted required improvements and reforms in the family law system:

- 2017 House of Representatives Standing Committee on Social Policy and Legal Affairs. A better family law system to support and protect those affected by family violence. Recommendations for an accessible, equitable and responsive family law system which better prioritises safety of those affected by family violence;^{lxxv}
- 2015 Family Law Council Interim Report and 2016 Final Report on Families with Complex Needs and the Intersection of Family Law and Child Protection;^{lxxvi}
- 2016 Victorian Royal Commission into Family Violence Report;^{lxxvii}
- 2014 Productivity Commission Access to Justice Arrangements Inquiry Report;^{lxxviii}

The Law Council of Australia is finalising the Justice Project resulting from a comprehensive, national review into the state of access to justice in Australia.^{lxxix} We also commend the newly established comprehensive family law review led by the Australian Law Reform Commission with the final report to be published in 2019.

We support the National Framework to improve accessibility to Australian courts for Aboriginal and Torres Strait Islander women and migrant and refugee women, which was developed by the Judicial Council on Cultural Diversity.^{lxxx} This framework was authorised by the Council of Chief Justices and aims to improve access to justice, particularly in the context of family violence and family breakdown. JCCD also developed Recommended National Standards for Working with Interpreters in Courts and Tribunals.^{lxxxi} However, courts have not received

sufficient supplementary funding to implement the recommendations in the Framework and the Standards.

REMAINING CHALLENGES

We believe that reforms to the family law system need to ensure that it is responsive to structural inequalities that impact families within and outside the scope of family law.^{lxxxii} There is a strong need for systemic changes aimed at mitigating and improving access and fairness of outcomes for diverse families.

Current information available on the websites of relevant government departments, courts or tribunals regarding family violence is technical and difficult to find. Often it is available only in English. Language barrier may be present for both Aboriginal and Torres Strait Islander women as well as migrant and refugee women. Many women accessing this information will have low levels of English proficiency, lower levels of digital literacy and possibly lower levels of overall literacy (including in their first language), and limited time away from a perpetrator in which to undertake research. Migrant and refugee women may have a limited understanding of Australian law and visa systems.

There is a great need for better training for judicial officers and professionals who work in the family law system in the areas of:

- the nature and dynamics of family violence;
- cultural competency (working with Aboriginal and Torres Strait Islander people and people from culturally and linguistically diverse backgrounds);
- working with people who identify as LGBTIQ;
- intersectionality of clients' needs that includes recognition of structural inequalities arising from the interconnectedness of gender, age, sexuality, disability, culture, religion, race and/or other experiences;
- trauma informed practice;
- the intersection of family law, child protection and family violence;
- technology facilitated abuse; and
- the intersection of family violence and family law in property determinations that includes:
 - o the financial impacts of family violence
 - o the nature and impacts of economic abuse.^{lxxxiii}

The definition of family violence in the Family Law Act needs to be expanded to encompass other manifestations of domestic and family violence such as reproductive coercion, technology-facilitated abuse, cultural and spiritual abuse and systems abuse to be consistent with the National Family and Domestic Violence Bench Book.^{lxxxiv}

We recommend the employment of Cultural Court Liaison Officers and Indigenous Court Liaison Officers in courts. We also draw your attention to the Safety First in Family Law Plan developed by Women’s Legal Services Australia.^{lxxxv}

RECOMMENDATIONS

That the Australian Government

6.1.1. Formally respond to the most recent reports on the needed improvements to the family law system.

6.1.2. Ensure sufficient funding to courts to implement forthcoming reforms proposed by the Australian Law Reform Commission.

6.1.3. Remove a presumption of “equal shared parental responsibility” and language of “equal shared time” from the Family Law Act 1975 to shift culture and practice towards a greater focus on safety and risk to children.

6.1.4. Legislate the ban of direct cross-examination of victims/survivors by perpetrators.

6.1.5 Implement Women’s Legal Services Australia’s Safety First in Family Law plan.

6.2. Family Violence Prevention Legal Service

BACKGROUND

Family Violence Prevention Legal Services (FVPLS) provide holistic, culturally safe legal and non-legal assistance, casework, counselling and court support to Aboriginal and Torres Strait Islander victims/survivors of family violence (nationally 90% of their clients are women and their children). FVPLS also undertake important community legal education and early intervention and prevention work.

REMAINING CHALLENGES

Currently, FVPLS are only funded by the Commonwealth Government to service specified regional and remote locations, leaving vast swathes of the country un-serviced. Thirteen (13) of the 14 FVPLSs operating across Australia have received no increase in core funding since 2013-14. Further, over the last five years, not one FVPLSs’ funding has been increased to match Consumer Price Indexation (‘CPI’). The lack of CPI alone represents a cumulative loss of \$9.7 million.

In 2016, some National FVPLS Forum members reported being forced to turn away approximately 30-40% of people seeking assistance due to under-resourcing.

Furthermore, FVPLSs did not receive any additional funding under the legal assistance package for the pilot and expansion of the specialist domestic violence units under the Women’s Safety Package, an initiative under the National Plan.

RECOMMENDATIONS

That the Australian Government

6.2.1. Commit to long-term and secure funding agreements and increases funding to ensure national coverage of FVPLS’ services and meeting the demand;

6.2.2. Reinstate the National FVPLS Program with a direct allocation of funding;

6.2.3. Adopt justice targets with a specific focus on family violence through the Closing the Gap refresh;

6.2.4. Lift the Commonwealth funding restrictions for servicing only certain identified rural and remote areas for specialised, culturally safe services such as Family Violence Prevention Legal Services and allow for urban coverage.

6.3. Emerging Issues: Justice Responses to Technology-Facilitated Abuse

BACKGROUND

Manifestations of technology-facilitated abuse range from recording of intimate images in situations of coercion, to stalking, installing hidden applications to track woman’s location^{lxxxvi} or to obtain access to her email or messages, (cyber)bullying and harassment, threats to coerce her into not giving evidence, impersonation through apps on smart phones to withdraw from the proceedings, and the use of communications technologies to enable a sexual assault and/or to coerce a victim into an unwanted sexual act.^{lxxxvii}

Technology-facilitated abuse has become a common tool of perpetrators of domestic and family violence to threaten, harass and/or control both current and former partners.^{lxxxviii} The national survey of technology-facilitated abuse drawing on the experience of family violence practitioners across Australia^{lxxxix} stated that 98 per cent of survey respondents indicated that they had clients who had experienced technology-facilitated stalking and abuse.

POSITIVE DEVELOPMENTS

Justice responses to technology-facilitated abuse differ based on the nature of allegations and state and territory laws.^{xc} There has been also changes in states and territories’ legislations to respond to technology-facilitated abuse.

On the national level, there is a current review of the Criminal Code penalties in relation to cyberbullying. After advocacy from organisations including AWAVA, there is some hope that there will be a strong gender dimension in approaches to cyberbullying.

In 2015 the Office of the eSafety Commissioner was established to ensure the online safety of all Australians. In 2018 a Portal was launched aimed at removal of intimate images published without consent from social media and other sites. The eSafety Commissioner was granted additional powers to enforce the prohibition on non-consensual sharing of intimate images (image-based abuse).^{xcii}

REMAINING CHALLENGES

We are concerned that with the introduction of the civil penalties regime and the failure to criminalise non-consensual sharing of intimate images, there may be further impediments for access to justice.^{xciii} If a victim chooses to pursue civil penalties, the access to the criminal justice system on the same matter will be barred. In addition, we are concerned whether sufficient information is provided to a victim/survivor that there may be no possibility to recover the removed image, if in future they need it as evidence against the perpetrator.

RECOMMENDATIONS

6.3.1. Any civil penalty regime on image-based abuse should be accompanied by consistent and uniform criminal legislation enacted in each Australian State and Territory, and at a Commonwealth level.

Annex: Summary of Recommendations

1.1.1. Ensure continuous investment into robust and inclusive data collection in relation to violence against women.

2.1.1. Ensure continuous, sustainable and adequate funding of positive initiatives developed as a part of the National Plan such as ANROWS, Our Watch and The Line, DV Alert, and 1800RESPECT, as well as the six National Women's Alliances.

2.1.2. 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.

2.1.3. Proactively build capacity for effective gender equality and violence prevention education to children and young people.

2.2.1. Ensure there is an independent mechanism to monitor and evaluate the implementation of the National Plan and adequate funding of civil society to engage in this process.

2.3.1. 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.

- o This should ensure transparency and inclusivity with civil society, including representatives of Aboriginal and Torres Strait Islander women, CALD women, women with disability, young women, mature age women, women in prison, women from regional, rural and remote areas and LGBTIQ people, domestic, family and sexual violence services and specialists (including Aboriginal and Torres Strait Islander Community Controlled Organisations), other women's services, academics, practising lawyers and/or women's legal specialists.

2.4.1. Establish an independent, expert led taskforce to track, assess and publicly report on universities' and residences' measures to prevent, and improve responses to sexual violence.

2.4.2. Together with governments and funding bodies at all levels, provide greater financial and institutional support to effective local and state-based organisations and programs working in the area of sexual violence prevention, in line with governments' commitments under the National Plan.

2.4.3. Resource and support specialist women's services in their diversity across the full range of service types and target groups to assist and advocate for women through the justice system and legal processes in relation to sexual violence.

3.1.1. Ensure adequate and sustainable funding for Aboriginal community-led organisations, Aboriginal Family Violence Prevention Legal Services, and the National Aboriginal and Torres Strait Islander Women Alliance.

3.1.2. In developing new initiatives undertake a substantial gender analysis to ensure that proposed policies do not create further obstacles for disadvantaged women to live free of violence.

3.1.3. Undertake a thorough examination of the issues surrounding the over-representation of Aboriginal and Torres Strait Islander women in the Australian justice system.

3.2.1. Implement the recommendations and programs presented in the Women with Disabilities Australia (WWDA) Stop the Violence Project reports.

3.3.1. End the mandatory detention of asylum seekers and refugees in offshore facilities.

3.3.2. Ensure that age, gender and diversity are mainstreamed in the to-be-adopted Global Compact on Refugees and Global Compact for Safe, Orderly and Regular Migration.

3.3.3. Ensure that migration rules and eligibility requirements for support services do not disempower victims/survivors of violence or discourage them from leaving violent relationships.

3.3.4. Widen the eligibility for the Free Interpreting Service to ensure that interpreting services are always available to those who need them.

3.4.1. Provide sustainable and adequate funding for the development of LGBTI-specific resources, programs and targeted community education campaigns and identification of research priorities and effective prevention strategies.

3.4.2. Mainstream services should be also trained to adopt inclusive practices and provide appropriate support.

3.4.3. Invest in more research about domestic and family violence in the LGBTIQ community.

3.5.1. Ensure that women in rural, regional and remote areas have equal access to culturally safe, specialised support services, including legal support, access to court facilities, transport and telecommunications.

4.1.1. Invest in social (public and community) housing infrastructure

4.1.2. Ensure that the new National Housing and Homelessness Agreement includes reporting and accountability measures, which should include the improvement of housing options for women escaping violence as performance indicators for the Agreement;

4.1.3. Ensure that specialist services demonstrating expertise in the diverse housing needs and experiences of women are prioritised and adequately funded under the NHHA and that there is clarity in the specific funding allocations for specialist women's services funding under general funding;

4.1.4. Consider the inclusion of gender equity as criteria when selecting tenders for homelessness and housing services;

4.1.5. Ensure adequate and sustainable funding to meet demand for homelessness services;

4.1.6. Address and meet the specific needs of diverse groups of women such as Aboriginal and Torres Strait women, women with a disability, older women, women from culturally and linguistically diverse backgrounds, women in rural, regional and remote areas, and women who identify as LGBTIQ. Ensure that crisis accommodation is accessible and culturally safe.

5.1.1. De-link access to the Support for Trafficked People Program from compliance with criminal investigations to enable survivors receive the support necessary to recover from their experiences.

6.1.1. Formally respond to the most recent reports on the needed improvements to the family law system.

6.1.2. Ensure sufficient funding to courts to implement forthcoming reforms proposed by the Australian Law Reform Commission.

6.1.3. Remove a presumption of "equal shared parental responsibility" and language of "equal shared time" from the Family Law Act 1975 to shift culture and practice towards a greater focus on safety and risk to children.

6.1.4. Legislate the ban of direct cross-examination of victims/survivors by perpetrators.

6.1.5 Implement Women's Legal Services Australia's Safety First in Family Law plan.

6.2.1. Commit to long-term and secure funding agreements and increases funding to ensure national coverage of FVPLS' services and meeting the demand;

6.2.2. Reinstate the National FVPLS Program with a direct allocation of funding;

6.2.3. Adopt justice targets with a specific focus on family violence through the Closing the Gap refresh;

6.2.4. Lift the Commonwealth funding restrictions for servicing only certain identified rural and remote areas for specialised, culturally safe services such as Family Violence Prevention Legal Services and allow for urban coverage.

6.3.1. Any civil penalty regime on image-based abuse should be accompanied by consistent and uniform criminal legislation enacted in each Australian State and Territory, and at a Commonwealth level.

ⁱ Australian Institute of Health and Welfare 2018. Family, domestic and sexual violence in Australia 2018. Cat. no. FDV 2. Canberra: AIHW; ABS 2017b. Personal Safety Survey 2016. ABS cat. no. 4906.0. Canberra: ABS; Bryant & Bricknell 2017. Homicide in Australia 2012–13 to 2013–14: National Homicide Monitoring Program Report. Canberra: AIC; <https://anrows.org.au/resources/media/media-releases/intimate-partner-violence-contributes-highest-health-risk-women-aged>; <https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services-2016-17/contents/clients-services-and-outcomes>

ⁱⁱ Australian Domestic and Family Violence Death Review Network (2018) Data Report.

<http://www.coronerscourt.vic.gov.au/resources/e7964843-7985-4a25-8abd-5060c26edc4d/website+version+-+adfvdn+data+report+2018+.pdf>

ⁱⁱⁱ Australian Institute of Health and Welfare 2018. Family, domestic and sexual violence in Australia 2018. Cat. no. FDV 2. Canberra: AIHW.

^{iv} Horsley P., GLHV@ARCSHS, La Trobe University, Our Watch (2017) Primary prevention of family violence against people from LGBTI communities – An analysis of existing research [https://www.ourwatch.org.au/getmedia/32e193c0-66f9-4957-81bb-62c2245a9d88/Primary-Prevention-of-FV-against-LGBTI-people-Report-\(Accessible-PDF\).pdf.aspx](https://www.ourwatch.org.au/getmedia/32e193c0-66f9-4957-81bb-62c2245a9d88/Primary-Prevention-of-FV-against-LGBTI-people-Report-(Accessible-PDF).pdf.aspx)

^v <https://www.1800respect.org.au/>

^{vi} www.ourwatch.org.au

^{vii} <https://www.anrows.org.au/>

^{viii} <https://www.dvalert.org.au/>

^{ix} Australian Domestic and Family Violence Death Review Network (2018) Data Report.

<http://www.coronerscourt.vic.gov.au/resources/e7964843-7985-4a25-8abd-5060c26edc4d/website+version+-+adfvdn+data+report+2018+.pdf>

^x Australian Domestic and Family Violence Death Review Network (2018) Data Report.

<http://www.coronerscourt.vic.gov.au/resources/e7964843-7985-4a25-8abd-5060c26edc4d/website+version+-+adfvdn+data+report+2018+.pdf>

^{xi} AWAVA (2017) The 2017-2018 Federal Budget Analysis, available at <http://awava.org.au/2017/06/06/research/2017-2018-federal-budget-analysis>;

AWAVA (2018) The 2018-2019 Federal Budget Analysis, available at

<https://awava.org.au/2018/06/08/media-release/awavas-2018-19-federal-budget-analysis>

^{xii} 1800RESPECT May 2018 Stakeholder Update.

^{xiii} In the Australian context, culturally and linguistically diverse (CALD) is a broad and inclusive descriptor for communities with diverse language, ethnic background, nationality, dress, traditions, food, societal structures, art and religion characteristics. It excludes people born in main English speaking countries other than Australia such as Canada, the Republic of Ireland, New Zealand, South Africa, the United Kingdom (England, Scotland, Wales, Northern Ireland) and the United States of America. In this submission, we are also distinguishing between migrant and refugee experiences within the umbrella term of CALD, as the experiences of migration (whether voluntary or forced) has a tremendous impact on the future experiences in Australia, access to services etc.

^{xiv} Andrew, M. (2013). The institutional harvest: women's services and women's policy agencies. Maddison, S., and Sawyer, M. (eds.) (2013). *The Women's Movement in Protest, Institutions and the Internet* (pp. 87-104). New York, NY: Routledge.

^{xv} AWAVA (2016) Policy Brief. The Role of Specialist Women's Services in Australia's Response to Violence against Women and Their Children. <http://awava.org.au/2016/04/07/research/role-specialist-womens-services-australias-response-violence-women-children>

^{xvi} Tarczon, C., & Quadara, A. (2012). *The nature and extent of sexual assault and abuse in Australia* (ACSSA Resource Sheets). Melbourne: Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies, <https://aifs.gov.au/publications/nature-and-extent-sexual-assault-and-abuse-australia>

^{xvii} Clark, H. (2010) 'What is the criminal justice system willing to offer?' Understanding sexual assault victim/survivors' criminal justice needs', *Family Matters* 58, pp. 28–37; Daly, K (2011) 'Conventional and innovative justice responses to sexual violence', *ACSSA Issues* 12, [Australian Centre for the Study of Sexual Assault]

<https://aifs.gov.au/publications/conventional-and-innovative-justice-responses-sexual-violence>

^{xviii} Australian Human Rights Commission 2017. Change the course: National report on sexual assault and sexual harassment at Australian universities

https://www.humanrights.gov.au/sites/default/files/document/publication/AHRC_2017_ChangeTheCourse_UniversityRep

[ort.pdf](#); See also Australian Human Rights Centre, University of New South Wales (Sydney) 2017. On Safe Ground: Strengthening Australian university responses to sexual assault and harassment A good practice guide for Australian universities https://humanrights.unsw.edu.au/sites/default/files/inline-files/AHR0002_On_Safe_Ground_Good_Practice_Guide_online.pdf; End Rape Australia (2018) The Red Zone. An investigation into sexual violence in Australian university residential colleges, <https://static1.squarespace.com/static/5762fc04f5e231826f09afae/t/5a95cf99e4966ba2c2a64ca5/1519767581881/The+Red+Zone+Report+2018>

^{xix} Australian Law Reform Commission [ALRC] (2010) *Family Violence – A National Legal Response* (ALRC Report 114) <http://www.alrc.gov.au/publications/family-violence-national-legal-response-alrc-report-114>

^{xx} Daly, K. and Bouhours, B. (2010) 'Rape and Attrition in Legal Process: A Comparative Analysis of five countries', *Crime and Justice* 39(1), pp. 565–650.

^{xxi} Commonwealth of Australia 2016 Third Action Plan 2016–2019 of the National Plan to Reduce Violence against Women and their Children 2010–2022 https://www.dss.gov.au/sites/default/files/documents/10_2016/third_action_plan.pdf

^{xxii} Government of Western Australian (2001) Gordon Inquiry Report. Available at http://www.strongfamilies.wa.gov.au/about/How_it_started/gordon_inquiry

^{xxiii} The Australian Productivity Commission (2016), *Overcoming Indigenous Disadvantage - Key Indicators 2016*, page 4.98, table 4A.12.13 available at <http://www.pc.gov.au/research/ongoing/overcoming-indigenous-disadvantage/2016/report-documents/oid-2016-overcoming-indigenous-disadvantage-key-indicators-2016-report.pdf>.

^{xxiv} See: Australian Institute of Health and Welfare, *Family Violence Among Aboriginal and Torres Strait Islander Peoples* (2006).

^{xxv} Henry, N., Powell A., Flynn A. (2017) Not Just 'Revenge Pornography': Australians' Experiences of Image-Based Abuse. A SUMMARY REPORT. RMIT University. Available at <https://www.rmit.edu.au/news/all-news/2017/may/not-just-revenge-porn--image-based-abuse-hits-1-in-5-australian>

^{xxvi} Card holders receive 80% of their welfare benefit on a debit card. The other 20% is deposited into a standard bank account and is available to be withdrawn as cash.

^{xxvii} Australian Bureau of Statistics (ABS), *Prisoners in Australia, 2016* (8 December 2016)

^{xxviii} From 187.6 per 100,000 people to 464.8 per 100,000 as at 30 June 2016. See John Walker, *Australian Prisoners 1991* (Australian Institute of Criminology, 1992) 22; ABS, above n 31.

^{xxix} The rate for Aboriginal and Torres Strait Islander women was 464.8 per 100,000 people, while for non-Indigenous women it was 21.9 per 100,000 as at 30 June 2016: ABS, above n 31.

^{xxx} Indigenous women and their incarceration for minor crime A Report for the National Council of Women of WA Monica Viviani April 2016; Baldry E, 2013, 'Continuing systemic discrimination: Indigenous Australian women exiting prison', in *Women Exiting Prison: Critical Essays on Gender, Post-Release Support and Survival*, pp. 98 - 116, <http://dx.doi.org/10.4324/9780203097380>

^{xxxi} Grant, E. (2014), Approaches to the design and provision of prison accommodation and facilities for Australian Indigenous prisoners after the Royal Commission into Aboriginal deaths in custody *Australian Indigenous Law Review*, 17 (1) 47-55.; Human Rights and Equal Opportunity Commission (2002) *Social Justice Report 2002*, (W Jonas, Commissioner), Human Rights and Equal Opportunity Commission, Sydney

^{xxxii} Over-represented and overlooked: the crisis of Aboriginal and Torres Strait Islander women's growing over-imprisonment (2017) Report by the Human Rights Law Centre, Change The Record.

^{xxxiii} Elizabeth Grant and Sarah Paddick (2014) *Aboriginal Women in the Australian Prison System* <http://rightnow.org.au/opinion-3/aboriginal-women-in-the-australian-prison-system/>

^{xxxiv} Stathopolous, Mary, Addressing women's victimisation histories in custodial settings, *Australian Centre for the Study of Sexual Assault, ACSSA Issues No 13* (2012) 1, 7; Carlton, Bree and Segrave, Marie, 'Rethinking women's post-release reintegration and 'success'' (2016) 48(2) *Australian and New Zealand Journal of Criminology*, 281, 282; Holland, Jacki, 'Treating Disadvantage? A Gendered Exploration of Women's Offending, Post-Release Experiences and Needs (2017) *Parity* 30(1) 34; Commonwealth, Royal Commission into Institutional Responses to Child Sexual Abuse, Final report: Volume 2, *Nature and causes* (2017) 10, 67-68

^{xxxv} State of Victoria, Royal Commission into Family Violence: Report and recommendations, Vol V, Parl Paper No 132 (2014–16).

^{xxxvi} See: Women with Disabilities Australia, Submission to the UN Analytical Study on Violence Against Women with Disabilities (2011).

^{xxxvii} Women with Disabilities Australia et al (2013) National Symposium on Violence against Women and Girls with Disabilities: Background Paper, p.28, Op Cit.

^{xxxviii} Stop the violence: addressing violence against women and girls with disabilities in Australia: background paper Dowse, Leanne et al Women With Disabilities Australia, Hobart 2013 <http://www.stvp.org.au/documents/STVP-BackgroundPaper.pdf> at 48).

^{xxxix} Stop the Violence Project provides a strong framework for policy and practice reform to address violence against women with disabilities. This includes providing information and support to ensure women are aware of their rights and are empowered to speak out where violence is occurring, training for service providers to enable them to recognise and respond appropriately to women with disabilities, and legislative and policy reform at the national and State and Territory levels. These reforms our outlined within the Stop the Violence Project reports, which can be accessed at: <http://www.stvp.org.au/Resource-Compendium.html>

-
- ^{xi} Robyn Mildon et al, Understanding and Supporting Parents with Learning Difficulties (Victorian Parenting Centre, 2003) 4.
- ^{xii} Intellectual Disability Rights Service, 'Final grant report: Making Sense Website' (Report, Law and Justice Foundation of New South Wales, 28 May 2015) 1 ('Final grant report').
- ^{xiii} Office of the Public Advocate (2013) What happened to the village? The removal of children from parents with a disability. Report 1: Family law – the hidden issues.
- ^{xliii} Law Council of Australia (2017) The Justice Project. Consultation Paper 'People with Disability'; Law Council of Australia (2017) The Justice Project. Consultation Paper 'People Who Experience Family Violence'.
- ^{xliiv} AWAVA, *Submission into the Public Consultation on Visa Simplification*, 4.
- ^{xliiv} Vaugn et al., *The ASPIRE Project: Research report*, 11.
- ^{xlivi} For safety reasons, many refugees may require residents to discontinue studies or work while staying there. Discontinuation of studies will mean breach of the student visa and may result in deportation. inTouch Multicultural Centre Against Family Violence (2015) Submission to the Royal Commission into Family Violence.
- ^{xliivii} Committee on the Elimination of Racial Discrimination (2017) Concluding observations on the eighteenth to twentieth periodic reports of Australia; Dubravka Šimonović, 'End of Mission Statement' (27 February 2017) <http://un.org.au/files/2017/02/Endof-mission-statement-by-Dubravka-Simonovic-draftfinal-docx>; Francois Crepeau, UN Human Rights Council, Report of the Special Rapporteur on the Human Rights of Migrants on his Mission to Australia and the Regional Processing Centres in Nauru, UN Doc A/HRC/35/25/Add.3 (24 April 2017) 2.; Mutuma Ruteere, Special Rapporteur, Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance on his Mission to Australia, UN Doc A/HRC/35/41/Add.2 (9 June 2017).
- ^{xliiviii} See: Safe Steps Family Violence Response Centre and No To Violence (2015) Joint submission into the Royal Commission into Family Violence: Family Violence and LGBTIQ Communities; Drummond Street Services and the Victorian AIDS Council (2015) Joint submission into the Royal Commission into Family Violence: Family Violence and LGBTIQ Communities; State of Victoria, Royal Commission into Family Violence: Summary and recommendations, Parl Paper No 132 (2014–16).
- ^{xliix} Horsley P. (2015) Family Violence and The LGBTI Community Submission to The Victorian Royal Commission Into Family Violence On behalf of Gay and Lesbian Health Victoria, Australian Research Centre in Sex, Health & Society, La Trobe University, Melbourne
- ⁱ Chan, C. (2005) Domestic Violence in Gay and Lesbian Relationships, Australian Domestic and Family Violence Clearinghouse; Pitts, M, Smith, A, Mitchell, A, Patel, S (2006) Private Lives: A report on the health and wellbeing of GLBTI Australians. Gay and Lesbian Health Victoria and the Australian Research Centre in Sex, Health and Society, La Trobe University, Melbourne; Leonard, W., Mitchell, A., Patel, S., Fox, C. (2008) Coming forward: The under-reporting of heterosexual violence and same sex partner abuse in Victoria, Gay and Lesbian Health Victoria, La Trobe University, Melbourne; Scottish Transgender Alliance (2010) Out of sight, out of mind? Transgender people's experiences of domestic abuse, Scotland
- ⁱⁱ Pitts, M, Smith, A, Mitchell, A, Patel, S (2006) Private Lives: A report on the health and wellbeing of GLBTI Australians. Gay and Lesbian Health Victoria and the Australian Research Centre in Sex, Health and Society, La Trobe University, Melbourne
- ⁱⁱⁱ Scottish Transgender Alliance (2010) Out of sight, out of mind? Transgender people's experiences of domestic abuse, Scotland
- ^{liii} State of Victoria, Royal Commission into Family Violence: Summary and recommendations, Parl Paper No 132 (2014–16).
- ^{liiv} The Women's Services Network (WESNET), 2000, Domestic violence in rural Australia: a literature review, Department of Transport and Regional Services, Canberra: <http://dpl/Books/2000/DomesticViolenceRegional.pdf>. See also: Domestic and family violence in regional, rural and remote communities An overview of key issues Monica Campo and Sarah Tayton CFCA Practitioner Resource— December 2015 <https://aifs.gov.au/cfca/publications/domestic-and-family-violence-regional-rural-and-remote-communities>. See also: Lucinda Jordan and Lydia Philips, Women's experiences of surviving family violence and accessing the Magistrates' Court in Geelong, Victoria (CRRLJ, Deakin University: 2013, 9, citing eg Council of Australian Governments, National Implementation Plan to Reduce Violence against Women (Commonwealth of Australia: 2012); Hume Riverina Community Legal Service ('HRCLS'), Piecing together the puzzle: the perspective of community organisations about legal need (June 2015), <https://humeriverinacommunitylegalservice.wordpress.com/2015/08/26/piecing-together-the-puzzle-the-perspective-of-community-organisations-about-legal-need/>
- ^{liv} Skye Saunders, Whispers from the Bush: The Workplace Sexual Harassment of Australian Rural Women (The Federation Press: 2015), 2-3.
- ^{livi} Lucinda Jordan and Lydia Philips, Women's experiences of surviving family violence and accessing the Magistrates' Court in Geelong, Victoria (CRRLJ, Deakin University: 2013, 9, citing eg Council of Australian Governments, National Implementation Plan to Reduce Violence against Women (Commonwealth of Australia: 2012).
- ^{liivii} Tony Vinson and Margot Rawsthorne, with Adrian Beavis and Matthew Ericson, Dropping off the edge 2015: persistent communal disadvantage in Australia (Jesuit Social Services/Catholic Social Services Australia: 2015).
- ^{liiviii} Law Council of Australia The Justice Project (2017) Rural, Regional and Remote Australians Consultation Paper
- ^{lix} Safe And Strong A Victorian Gender Equality Strategy, The State of Victoria, available at http://www.vic.gov.au/system/user_files/Documents/women/161108_Victorian_Gender_Equality_Strategy_ONLINE.pdf
- ^{lx} <https://www.aihw.gov.au/reports/fdv/02/family-domestic-sexual-violence-in-australia-2018/contents/summary>
- ^{lxii} <https://www.aihw.gov.au/reports/homelessness-services/specialist-homelessness-services-2016-17/contents/client-groups-of-interest/clients-who-have-experienced-domestic-and-family-violence>

- lxii Homelessness Australia (2015) New analysis shows additional \$33.8m needed to address domestic violence service gap <http://www.homelessnessaustralia.org.au/index.php/42-news/125-new-analysis-shows-additional-33-8m-needed-to-address-domestic-violence-service-gap>
- lxiii <http://chp.org.au/wp-content/uploads/2018/03/Media-Release-14-March-Homelessness-increase-no-surprise-homelessness-is-not-a-Federal-priority.pdf> ;
- lxiv <http://www.aihw.gov.au/homelessness/specialist-homelessness-services-2014-15/indigenous-clients/>
- lxv Homelessness Australia (2013) *Homelessness and Aboriginal and Torres Strait Islanders Fact Sheet*. Available at: http://www.homelessnessaustralia.org.au/images/publications/Fact_Sheets/Homelessness_and_ATSIv3.pdf
- lxvi Homelessness Australia (2013), Op Cit.
- lxvii Saugeres, L. (2009) "We Do Get Stereotyped": Gender, Housing, Work and Social Disadvantage, *Housing, Theory and Society*, 26(3), 193-209; FECCA (2012) Women's Policy Statement – Supporting Australian Women from Culturally and Linguistically Diverse (CALD) Backgrounds <http://www.fecca.org.au/images/stories/pdfs/fecca%20womens%20policy%202012.pdf>
- lxviii See AWAVA & ERA (2017) A gender responsive National Housing and Homelessness Agreement <https://awava.org.au/2017/10/12/submissions/era-awava-letter-re-gender-responsive-national-housing-homelessness-agreement>
- lxix AUSTRALIAN GOVERNMENT ATTORNEY-GENERAL'S DEPARTMENT CRIMINAL JUSTICE POLICY AND PROGRAMMES DIVISION (AGAGD), *Australian Government submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry into Establishing a Modern Slavery Act in Australia*, in Canberra, 2017. p. 12.
- lxx See: ARC Support for Trafficked People Program <http://www.redcross.org.au/support-for-trafficked-people.aspx>
- lxxi See Anti-Slavery Australia <http://www.antislavery.org.au/resources/fact-sheets/112-fact-sheet-9-visa-options-for-trafficked-people.html>
- lxxii See: <http://minister.homeaffairs.gov.au/alexhawke/Pages/support-for-victims-of-modern-slavery.aspx>
- lxxiii We refer you to the CEDAW Shadow Report for the 70th session of the CEDAW Committee, prepared by Project Respect.
- lxxiv Commonwealth of Australia (2017) Parliamentary Joint Committee on Law Enforcement. An Inquiry Into Human Trafficking, Slavery And Slavery-Like Practices <http://apo.org.au/system/files/99476/apo-nid99476-402731.pdf>
- lxxv Available online at: https://www.aph.gov.au/Parliamentary_Business/Committees/House/Social_Policy_and_Legal_Affairs/FVlawreform/Report
- lxxvi Available online at: <https://www.ag.gov.au/FamiliesAndMarriage/FamilyLawCouncil/Documents/Family-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems-Final-Report-Terms-3-4-5.PDF> and <https://www.ag.gov.au/FamiliesAndMarriage/FamilyLawCouncil/Documents/Families-with-Complex-Needs-Intersection-of-Family-Law-and-Child-Protection-Systems%E2%80%93Interim-Report-Terms-1-and-2.pdf>
- lxxvii Available online at: <http://files.rcfv.com.au/Reports/Final/RCFV-All-Volumes.pdf>
- lxxviii Available online at: <http://www.pc.gov.au/inquiries/completed/access-justice/report>
- lxxix Law Council of Australia (2017) The Justice Project. People who Experience Family Violence. Consultation Paper. For more information <https://www.lawcouncil.asn.au/justice-project>
- lxxx Judicial Council on Cultural Diversity (2017) National Framework to improve accessibility to Australian courts for Aboriginal and Torres Strait Islander women and migrant and refugee women http://jccd.org.au/wp-content/uploads/2017/09/JCCD_National_Framework.pdf
- lxxxi Judicial Council on Cultural Diversity (2018) Recommended National Standards for Working with Interpreters in Courts and Tribunals <http://jccd.org.au/wp-content/uploads/2018/02/JCCD-Interpreter-Standards.pdf>
- lxxxii inTouch Inc. Multicultural Centre Against Family Violence. (2010). I lived in fear because I knew nothing: Barriers to the justice system faced by CALD Women experiencing family violence. Melbourne: InTouch; Rees, S., & Pease, B. (2006). *Refugee settlement, safety and wellbeing: Exploring domestic and family violence in refugee communities*. Melbourne: Immigrant Women's Domestic Violence Service; Rees, S., & Pease, B. (2007). Domestic violence in refugee families in Australia: Rethinking settlement policy and practice. *Journal of Immigrant and Refugee Studies*, 5(2), 1-19.
- lxxxiii For instance, there is distrust in the court system from Aboriginal and Torres Strait Islander people due to the significantly higher incarceration rates, and distrust in the child protection authorities due to the history of the Stolen Generations and racial bias that persists to the present day. Similarly, it has been reported that refugee women are reluctant to seek help from the police due to potential history of abuse, torture and trauma inflicted on them by government agencies.
- lxxxiv <http://dfvbenchbook.aija.org.au/contents>; AWAVA, NATSIWA & Harmony Alliance (2018) Joint Submission to the Australian Law Reform Commission in response to the comprehensive review of the family law system <https://awava.org.au/2018/05/22/submissions/2018/submission-in-response-to-the-australian-law-reform-commissions-review-of-the-family-law-system-issues-paper>
- lxxxv <https://safetyinfamilylaw.org.au/>
- lxxxvi See <http://www.smartsafe.org.au/disturbing-new-trend-domestic-violence-offenders-use-car-tracking>
- lxxxvii Anastasia Powell & Nicola Henry (2016): Policing technology-facilitated sexual violence against adult victims: police and service sector perspectives, *Policing and Society*, DOI:10.1080/10439463.2016.1154964
- lxxxviii Henry, N., Powell A. (2015) Beyond the 'sext': Technology facilitated sexual violence and harassment against adult women. *Australian & New Zealand Journal of Criminology*. Vol. 48(1) 104–118
- lxxxix Woodlock, Delanie (2015) ReCharge: Women's Technology Safety, Legal Resources, Research and Training, Women's Legal Service NSW, Domestic Violence Resource Centre Victoria and WESNET, Collingwood.

^{xc} AWAVA (2017) Submission to the UN Special Rapporteur on Violence Against Women on online violence against women <https://awava.org.au/2018/02/06/submissions/submission-un-special-rapporteur-violence-women-online-vaw>

^{xcd} See the consultation paper and stakeholder submissions at <https://www.communications.gov.au/have-your-say/civil-penalty-regime-non-consensual-sharing-intimate-images>

^{xcii} AWAVA (2017) Submission on the proposed civil penalties regime for non-consensual sharing of intimate images to the Department of Communication and the Arts <http://awava.org.au/2017/07/20/submissions/submission-proposed-civil-penalties-regime-non-consensual-sharing-intimate-images>; WESNET (2017) Submission on the proposed civil penalties regime for non-consensual sharing of intimate images to the Department of Communication and the Arts <https://www.communications.gov.au/sites/g/files/net301/f/submissions/wesnet.pdf>; Women's Legal Services Australia (2017) Submission on the proposed civil penalties regime for non-consensual sharing of intimate images to the Department of Communication and the Arts https://www.communications.gov.au/sites/g/files/net301/f/submissions/womens_legal_services_australia.pdf