



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

### List of issues and questions prior to the submission of the ninth periodic report of Australia\*

#### Women's rights and gender equality in relation to the pandemic, recovery efforts and global crises

1. Please describe the measures taken to address the coronavirus disease (COVID-19) pandemic and its long-term impact, and ways to apply these in the State party's response to current and future crises, such as climate change, food insecurity and the energy crisis. Please provide information on strategies taken to ensure that gender equality and women's empowerment are a fundamental requirement in addressing such crises, and in elaborating adequate responses, such as policies, assistance programmes, recovery efforts and the consolidation of the rule of law. Please also provide information on measures taken to ensure the equal and meaningful participation of women in these processes, and that such crises will not lead to a reversal of progress made in the protection and promotion of women's rights.

#### Legislative and institutional framework

2. In the light of the Committee's previous recommendations (para. 10),<sup>1</sup> please provide information on the measures taken by the State party to review its reservation to article 11 (2) of the Convention with a view to withdrawing it.

3. In the light of the Committee's previous concluding observations (para. 4), please provide information on the impact on women's rights and gender equality of the amended Marriage Act 1961; the amendments to the Crimes (Domestic and Personal Violence) Act 2007 of the New South Wales legislature; the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act; the amendments to the Sex Discrimination Act 1984; the amendments to the Family Law Act 1984 and the Workplace Gender Equality Act 2012.

#### Constitutional and legal framework

4. Recalling its general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, and in line with the Committee's

\* Adopted by the pre-sessional working group on 2 March 2023.

<sup>1</sup> Unless otherwise indicated, paragraph numbers refer to the Committee's previous concluding observations on the eighth periodic report of the State party (CEDAW/C/AUS/CO/8).



previous concluding observations (para. 12), please provide information on the steps taken to:

(a) Fully incorporate the Convention into national law by adopting a federal charter of human rights that includes a guarantee of equality of women and men and prohibits discrimination against women, including direct and indirect discrimination in the public and private spheres, as well as intersecting forms of discrimination, in accordance with article 1 of the Convention;

(b) Expedite the recognition of the First Nations in the Constitution to enable Indigenous women to claim their rights as recommended by the Committee in its follow-up letter of 19 July 2021;

(c) Harmonize federal, state and territory legislation against discrimination to bring it into conformity with the Convention;

(d) Implement the remaining recommendations for enhancing the effectiveness of the Sex Discrimination Act that were made in 2008 by the Standing Committee on Legal and Constitutional Affairs.

### **Access to justice**

5. In the light of general recommendation No. 39 (2022) on Indigenous women, please provide information on the steps taken to implement:

(a) The recommendations made in 1996 by the Australian Law Reform Commission on the recognition of Aboriginal customary laws, in particular in the areas of the criminal law and sentencing, as well as of evidence and procedure (paras. 542, 677 and 880);

(b) The recommendations made in 2014 by the Productivity Commission in the report on its inquiry into access to justice arrangements, in particular recommendations 16.3, referring to the role of Aboriginal and Torres Strait Islander legal services, 21.6, on the funding for the providers of legal assistance, 25, on disaggregated data collection and chapter 22 on Assistance for Aboriginal and Torres Strait Islanders;

(c) The results of the Australian Law Reform Commission's 2019 review of the family law system in the reorganization of the family court system, notably recommendation 9 to adopt "a definition of member of the family that is inclusive of any Aboriginal and Torres Strait Islander concept of family that is relevant in the particular circumstances of the case" and recommendation 45 that "the Australian Government should ensure the availability of Indigenous Liaison Officers in court registries where they are required";

(d) The progress made in training more Indigenous legal professionals to provide legal assistance to Indigenous women, including for making claims under the Native Title Act and other statutory land rights schemes.

### **National human rights institution**

6. Please provide information on the measures taken by the State party to ensure that the Australian Human Rights Commission retains its A status accreditation and that it has adequate human, technical and financial resources to discharge its mandate on women's rights and gender equality effectively. Please also provide information on the steps taken to implement the 2022 recommendations of the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions, especially as regards the process of appointment of Commissioners, in line with the principles relating to the status of national institutions for the promotion and

protection of human rights (Paris Principles; General Assembly resolution 74/156) and the Committee's previous concluding observations (para. 18).

### **Temporary special measures**

7. Please provide information on the adoption and impact of temporary special measures to accelerate substantive equality of women and men in all areas where women are underrepresented or disadvantaged, such as Indigenous women, migrant women and rural women, in particular women facing intersecting forms of discrimination, in line with previous recommendations of the Committee (para. 22; CEDAW/C/AUS/CO/7, para. 27).

### **Stereotypes and harmful practices**

8. In line with the Committee's previous concluding observations (CEDAW/C/AUS/CO/8, para. 24), please provide information on the measures taken by the State party to develop a comprehensive strategy to overcome discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and society, access to education, employment and health. Please provide information on measures taken to address sexist portrayals of women in the media, including in social media and hate speech targeted to women and girls. Please also provide information regarding the measures taken to prevent and protect women and girls, in particular those belonging to ethnic and religious minorities, from child and/or forced marriage, in line with joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices.

### **Gender-based violence against women**

9. In the light of the Committee's previous concluding observations (para. 28), please provide information on the concrete measures taken and results obtained to change behaviours and attitudes that lead to the high rates of gender-based violence against women in the State party, which remains endemic. Please, also provide information on:

(a) The steps taken to adopt federal legislation to shift the power to legislate on gender-based violence against women to the Federal Parliament;

(b) The implementation status of the National Plan to End Violence against Women and Children (2022–2032) and measures to monitor its impact;

(c) The allocation of human, technical and financial resources for the implementation of the 2022 national plan to reduce violence against women and girls in order to enhance efforts to ensure the availability of women-only and women-led support services for victims of gender-based violence;

(d) The measures to increase prevention and early interventions in domestic and family violence cases, including funding for specialist support services, as well as measures to implement the recommendations of the report "A National System for Domestic and Family Violence Death Review".

### **Extraterritorial obligations**

10. In line with the Committee's general recommendation No. 39 (2022) on Indigenous women and its previous concluding observations (para. 30), please provide information on the progress achieved in the elaboration of a national action plan on business and human rights and measures taken to ensure the free, prior informed consent of Indigenous women affected before any large-scale development and extractive industry project is approved. Furthermore, please indicate the measures

taken to investigate violations of women's human rights by business corporations, based or registered in the State party, and ensure compensation and rehabilitation of women victims of the Bougainville conflict.

#### **Climate change and disaster risk reduction**

11. Please provide information on the measures in place that ensure women have a central role in climate action and disaster risk reduction, at the local, regional, national and international levels, as well as in the adoption and implementation of strategies to reduce greenhouse gas emissions, notably resulting from coal consumption and exports.

#### **Trafficking, exploitation of prostitution**

12. In line with the Committee's previous concluding observations (para. 32), please, provide information on:

(a) The number of investigations, prosecutions, convictions and the sentences imposed on traffickers and their accomplices, in line with the Committee's previous concluding observations;

(b) The measures taken to address forced labour and strengthen the Pacific Australia Labour Mobility scheme, to implement the Modern Slavery Act of 2018 and the Support for Trafficked People Programme and to ensure the early identification and referral of victims of trafficking by law enforcement officials;

(c) Legislative measures taken to de-criminalize women in prostitution in all states and territories of the State party and to address sexual servitude and exploitation;

(d) The results of the three-year review of the Modern Slavery Act 2018, and the implementation of the National Action Plan to Combat Modern Slavery 2020–2025;

(e) The results of the federal compensation scheme for victims of trafficking and whether appropriate reparations are provided irrespective of the ability or willingness of victims to cooperate with the criminal proceedings against perpetrators; measures taken to lower the vulnerability threshold for women to have access to services.

#### **Participation in political and public life**

13. Please provide data on the representation of women, including Indigenous women, women with disabilities and other groups, in political and public life, notably through the adoption of temporary special measures.

#### **Women, peace and security**

14. Please provide information on the measures taken and on the progress made in integrating a gender perspective in the State party's second National Action Plan for the implementation of Security Council resolution [1325 \(2000\)](#) on women and peace and security and into national security policies, as well as the resources allocated for the implementation of the Plan. Please also provide information on the measures taken and the results of gender-responsive analysis of the security sector, including arms exports. Please provide information on how women's participation is ensured in these processes.

**Nationality**

15. Please provide information on the efforts and results in facilitating access to birth registration of their children for Indigenous women, notably through online registration and the reinforcement of mobile registration services, in particular in rural areas.

**Education**

16. Please provide information on:

(a) The steps taken to prohibit any suspension, expulsion and denial of education on the basis of motherhood and to prohibit restrictions on the return of young mothers to education after childbirth;

(b) The progress made in the implementation of plans to establish a science, technology, engineering and mathematics academy for Indigenous girls and make use of information and communications technology to enhance access to education for girls and women in remote regions and measures to promote non-traditional educational choices of girls and women, in particular in science, technology, engineering and mathematics and information and communication technology;

(c) Measures implemented to ensure a safe and more inclusive learning environment, in particular for Indigenous girls and women, girls and women with disabilities, migrant women and their daughters, including those born in the State party, and lesbian, bisexual, transgender and intersex women;

(d) The number of secondary schools established in Indigenous communities and the progress made in incorporating education on the First Nations into regular school curricula.

**Employment**

17. Please provide information on the measures taken to address industrial and occupational segregation and implement the principle of equal pay for work of equal value. Please also provide information on the implementation of the recommendations of the 2017 inquiry into gender segregation in the workplace and of the report of the Australian Commission titled “Supporting working parents: pregnancy and return to work national review”. Please further provide information on:

(a) The steps taken for the adoption of a code of practice regarding the legal obligations of employers with regard to pregnant employees and employees with family obligations, and raise awareness of those obligations among employers;

(b) The measures put in place to conduct a gender-impact analysis of the pension fund, considering women’s disproportionate burden of unpaid care work;

(c) The progress in the implementation of the recommendations of the National Inquiry into Sexual Harassment in Australian Workplaces by the Australian Human Rights Commission.

**Sexual harassment**

18. Please provide information on the measures taken to encourage reporting of sexual harassment in the workplace, to adopt gender-sensitive investigation methods and to adequately punish those responsible. Please, inform the Committee about the implementation of the recommendations of the Independent Review into Commonwealth Parliamentary Workplace, to eradicate sexual harassment in parliamentary workplaces.

### **Health**

19. Please provide information on the progress made in implementing the recommendations made by the Children's Commissioner in 2017 to review state and territory laws, policies and practices to guarantee access to legal and prescribed abortion services and raise awareness of sexual and reproductive health rights among women and girls, parents, teachers, medical professionals and the general public and create safe zones around abortion clinics. Please, also provide information on:

(a) The allocation of additional resources to curb the deteriorating mental health situation of women and girls, in particular young mothers, Indigenous women, women with disabilities, women in detention, migrant women and their daughters, including those born in the State party, and lesbian, bisexual, transgender and intersex women;

(b) The steps taken towards the removal of the requirement for transgender women to obtain legal recognition of their gender and guarantee the rights of transgender women to bodily integrity, autonomy and self-determination;

(c) Progress in the provision of culturally appropriate, gender-sensitive and non-discriminatory health-care services and in the delivery of training for Indigenous health professionals, including in rural and remote areas;

(d) The steps taken to finalize the national strategic framework for the mental health and social and emotional well-being of Aboriginal and Torres Strait Islander peoples, to guarantee appropriate resources for its implementation and to address intergenerational trauma in culturally appropriate and effective ways.

### **Social and economic benefits**

20. Please provide information on:

(a) Measures taken to strengthen the support provided to families and single-headed households to ensure an adequate standard of living, reduce out-of-home placements and address food insecurity;

(b) Measures and programmes for the economic empowerment of single mothers, including measures that allow them to complete higher education, and access to childcare subsidies for unemployed women, young mothers and women at risk of poverty.

### **Indigenous women**

21. Please provide information on:

(a) The budgetary measures taken to ensure the increase of the human, technical and financial resources of the National Congress of Australia's First Peoples;

(b) The policy and budgetary decisions taken to ensure long-term funding for safe, secure and affordable housing for Indigenous women, and whether these decisions involve the National Affordable Housing Agreement.

### **Refugee and asylum-seeking women**

22. Recalling the Committee's general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women and general recommendation No. 28 (2010) on the core obligations of States Parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, please provide information on:

(a) The practice of intercepting and returning asylum-seeking women and girls arriving by sea and measures taken to guarantee they can claim asylum on its territory;

(b) The steps taken to discontinue offshore processing in Nauru and at sea of asylum claims by women and girls, and measures to ensure that all women and girls seeking protection have access to gender-responsive and effective refugee status determination and asylum procedures and judicial review of decisions on their claims within the territory of the State party with access to free legal assistance;

(c) Legislative steps taken to repeal provisions on the mandatory detention of asylum-seekers, in particular women and girls and what are the measures taken to avoid detention or used only as a last resort, to ensure family unity and segregation of women and girls from men and boys other than close family members in asylum detention centres;

(d) The measures taken to guarantee that all refugee and asylum-seeking women and girls who are under the responsibility of the State party have access to education, and adequate sexual and reproductive health services and related information, including emergency contraception and safe abortion and post-abortion services in the whole territory;

(e) The measures taken to reinstate access to status resolution support services for all asylum-seeking women and girls;

(f) The policy, legislative and budgetary measures taken to prevent and investigate all complaints of gender-based violence, including sexual, against women in immigration facilities under the responsibility of the State party and prosecute and adequately punish perpetrators.

### **Women in detention**

23. Please provide information on:

(a) The policy and institutional measures to put in place holistic early intervention, design prevention and diversion strategies, as well as non-custodial alternatives to detention and steps taken to specifically abolish so-called “paperless arrest” and mandatory sentencing laws;

(b) Programmes that address the needs of women in detention and promote alternatives to detention, especially for Indigenous women who are detained for minor offences;

(c) The budgetary and institutional measures taken to ensure that women and girls in detention undergo comprehensive screening to determine their mental and physical health-care needs, and to ensure their access to health services in line with their needs;

(d) The institutional and budgetary measures taken to put in place mandatory trainings on women’s rights and on gender-sensitive behaviour for all staff in detention facilities and the percentage of staff who that participated in these trainings and the measures taken to ensure women in detention have confidential and effective access to independent complaint procedures;

(e) The number of investigations, prosecutions and punishments of cases of sexual violence against women in detention in comparison with the number of all cases reported;

(f) Measures taken to put in place alternative screening methods instead of strip-searches;

(g) Women's conditions of detention and whether they are in conformity with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

**Marriage and family relations**

24. Please provide information on the measures taken to review gender-neutral provisions in the Family Law Act, taking into account the results of the ongoing review of the family law system, and guarantee that gender-based violence against women in the domestic sphere is taken into account in child custody decisions. Please also provide information on the implementation of the recommendations made by the Family Law Council in 2001 to provide courts with discretionary powers to adjudicate on matters involving cultural-community divorce, so as to prevent and ensure that women are not forced to stay in religious unions and that their economic rights are protected upon dissolution of such unions.

**Additional information**

25. Please provide any additional information deemed relevant with regard to legislative, policy, administrative and other measures taken to implement the provisions of the Convention and the Committee's concluding observations since the consideration of the previous periodic report (CEDAW/C/AUS/8) in 2018. Such measures may include recent laws, developments, plans, programmes and ratifications of human rights instruments, as well as any other information that the State party considers relevant. Please also provide information on the measures taken to integrate a gender perspective into all efforts aimed at achieving the Sustainable Development Goals. Please note that, further to the issues raised in the present document, the State party will be expected, during the dialogue, to respond to additional questions relating to areas covered by the Convention.

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