



WOMEN  
WITH  
DISABILITIES  
AUSTRALIA  
(WWDA)

**Women With Disabilities Australia (WWDA)**

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Response to List of Issues and Questions in Relation to the Eighth  
Periodic Report of Australia to the Committee on the Elimination of  
Discrimination Against Women

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*Winner*, National Violence Prevention Award 1999  
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*Nominee*, French Republic's Human Rights Prize 2003  
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## About Women with Disabilities Australia (WWDA)

Women With Disabilities Australia (WWDA) is the award winning, national Disabled People's Organisation (DPO) for women and girls with all types of disability in Australia. The key purpose of WWDA is to promote and advance the human rights and freedoms of women and girls with disability. Our goal is to be a national voice for the rights of women and girls with disability and a national force to improve the lives and life chances of women and girls with disability.

WWDA represents more than two million disabled women and girls in Australia, has affiliate organisations and networks of women with disability in most States and Territories of Australia, and is internationally recognised for our global leadership in advancing the human rights of women and girls with disability. As a DPO, WWDA is managed and run by women with disability, for women and girls with disability.

WWDA is a founding member of [Disabled People's Organisations Australia](#) (DPO Australia) along with First People's Disability Network Australia, National Ethnic Disability Alliance, and People with Disability Australia. DPO Australia is an alliance of four national disabled people's organisations in Australia. The key purpose of DPO Australia is to promote, protect and advance the human rights and freedoms of people with disability in Australia by working collaboratively on areas of shared interest, purpose and strategic priority.

## Disclaimer

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## Access to Justice and Remedies (List of Issues para 4)

Women and girls with disability can face significant barriers when engaging with the Australian justice system.<sup>1</sup> They are often left without adequate legal remedy or redress, whether as complainants, litigants, defendants or victims of crime.<sup>2,3,4</sup>

Underfunding of Community Legal Centres and specialist disability legal services, and the inaccessibility of legal services to women and girls with disability<sup>5</sup> compound social and economic disadvantage.<sup>6,7</sup>

A number of laws, policies and practices diminish recognition of women and girls with disability as equal persons before the law and their rights to exercise legal capacity.<sup>8,9</sup>

Despite recommendations from UN treaty monitoring bodies,<sup>10</sup> Australia has failed to implement nationally consistent supported decision-making legislation, or to legislate against substitute decision-making regimes.

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- <sup>1</sup> Maher, J. M., Spivakovsky, C., McCulloch, J., McGowan, J., Beavis, K., Lea, M., Cadwallader, J., Sands, T. (2018) *Women, disability and violence: Barriers to accessing justice: Final report* (ANROWS Horizons, 02/2018). Sydney: ANROWS. Available at: <https://www.anrows.org.au/publications/horizons/women-disability-and-violence-barriers-accessing-justice-final-report>
  - <sup>2</sup> Women with Disabilities Australia (2013) *Stop the Violence Project, Report of the Proceedings and Outcomes, National Symposium on Violence Against Women and Girls with Disabilities*, Hobart: WWDA. Available at: [http://wwda.org.au/wp-content/uploads/2013/12/STV\\_Outcomes\\_Paper.pdf](http://wwda.org.au/wp-content/uploads/2013/12/STV_Outcomes_Paper.pdf)
  - <sup>3</sup> Australian Law Reform Commission (2014) *Equality, Capacity and Disability in Commonwealth Laws: Final Report* (ALRC Report 124). Available at: <https://www.alrc.gov.au/news-media/equality-capacity-and-disability-alrc-report>
  - <sup>4</sup> In particular, women and girls with disability may face communication barriers; have limited access to necessary supports and reasonable adjustments; face high costs associated with legal representation and support requirements; and, be subject to negative assumptions and stereotypes about their legal capacity, reliability and credibility.
  - <sup>5</sup> Including those in rural and remote areas: See Unpublished LAW Survey Data, cited in Productivity Commission, 'Access to Justice Arrangements' (Inquiry Report, Volume 1, No 72, 5 September 2014). Available at: <https://www.pc.gov.au/inquiries/completed/access-justice/report/access-justice-volume1.pdf>
  - <sup>6</sup> Maher et al. 2018 Op. Cit.
  - <sup>7</sup> In regard to civil claims of discrimination, while the Disability Discrimination Act 1992 (Cth) provides a level of protection, the financial capacity to pursue claims against corporate and institutional offenders where initial conciliation fails, remains out of reach for many women and girls with disability.
  - <sup>8</sup> Australian Cross Disability Alliance (ACDA), Australian Centre for Disability Law (ACDL) and Advocacy for Inclusion (2015) Australia's Universal Periodic Review 2015: Fact Sheet on Equality before the law and supported decision-making. See also: Women with Disabilities Australia (2016a) *WWDA Position Statement 2: The Right to Decision-Making*, Hobart: WWDA. Available at: <http://wwda.org.au/papers/toolkit/position-statements/>
  - <sup>9</sup> Moreover, the views of women and girls with disability are frequently ignored or disregarded in favour of experts, professionals, parents, guardians, and carers. – See CRPD/C/AUS/CO/1
  - <sup>10</sup> CRPD/C/AUS/CO/1

## Recommendations

- Establish a nationally consistent supported decision-making framework that ensures women and girls with disability can effectively exercise their legal capacity.
- Restore and increase funding to disability legal services, community legal centres, specialist Women's and Aboriginal and Torres Strait Islander legal services
- Implement the 2014 recommendation of the Productivity Commission to immediately invest \$200 million annually in legal assistance services for civil law services.

## Stereotypes and Harmful Practices (List of Issues para 8)

Women and girls with disability<sup>11</sup> are subject to harmful stereotypes that infringe on their rights in regard to parenting,<sup>12</sup> legal capacity,<sup>13</sup> access to justice,<sup>14</sup> sexual and reproductive rights,<sup>15,16</sup> social and civil participation,<sup>17</sup> and, decision-making.<sup>18</sup>

Australia does not have a national strategy to address the perpetuation of gendered disability violence or harmful stereotypes and practices. Some forms of gendered disability violence, including forced sterilisation, remain enshrined in legislation.<sup>19</sup>

Children are removed from the care of parents with intellectual or psychosocial disability at a rate 10 times higher than parents without disability.<sup>20,21</sup>

### Recommendations

- Implement a national strategy to reduce and eliminate all forms of violence against women and girls with disability.
- Commission a comprehensive assessment of the situation and rights of girls and women with disability, in order to establish a baseline of disaggregated data against which progress toward implementation of CEDAW and the CRPD can be measured.

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<sup>11</sup> Particularly women and girls with intellectual disability.

<sup>12</sup> Office of the Public Advocate (2015) *Rebuilding the village: Supporting families where a parent has a disability*. Available at: <http://www.publicadvocate.vic.gov.au/our-services/publications-forms/241-rebuilding-the-village-supporting-families-where-a-parent-has-a-disability-report-2-child-protection-2015>

<sup>13</sup> Women with Disabilities Australia (2016a) Op. Cit.; Disability Rights Now (2012) Op. Cit.

<sup>14</sup> Women With Disabilities Australia (2014) *Submission to the National Inquiry into Equal Recognition Before the Law and Legal Capacity for People With Disability*, Hobart: WWDA. Available at [http://wwda.org.au/wp-content/uploads/2013/12/WWDA\\_SUB\\_ALRC\\_IP44.pdf](http://wwda.org.au/wp-content/uploads/2013/12/WWDA_SUB_ALRC_IP44.pdf)

<sup>15</sup> Women with Disabilities Australia (2016b) *WWDA Position Statement 4: Sexual and Reproductive Rights*, Hobart: WWDA. Available at: <http://wwda.org.au/papers/toolkit/position-statements/>; Disability Rights Now (2012) Op. Cit.

<sup>16</sup> In particular, Section 216 of the Criminal Code Queensland Criminal Code Act 1899 (the Criminal Code) effectively criminalises sexual activity for people with disability 'any person who has or attempts to have unlawful carnal knowledge of a person with an impairment of the mind is... guilty of a crime'. It is also a crime to engage in other sexual behaviours with a person with an 'impairment of the mind'.

<sup>17</sup> Women with Disabilities Australia (2016c) *WWDA Position Statement 3: The Right to Participation*, Hobart: WWDA. Available at: <http://wwda.org.au/papers/toolkit/position-statements/>; Disability Rights Now (2012) Op. Cit.

<sup>18</sup> Women with Disabilities Australia (2016a) Op. Cit.; Disability Rights Now (2012) Op. Cit.

<sup>19</sup> Senate Standing Committee on Community Affairs (2013) *First Report: Involuntary or coerced sterilisation of people with disabilities in Australia*. Canberra: Parliament of Australia. Available at: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Involuntary\\_Sterilisation/First\\_Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilisation/First_Report)

<sup>20</sup> Women with Disabilities Australia (2016b) Op. Cit.; Disability Rights Now (2012) Op. Cit.

<sup>21</sup> Removals are often based on erroneous assumptions about inherent parental incapacity, and without sufficient evidence of violence or neglect. See Office of the Public Advocate, Op. Cit.; *Disability Rights Now* (2012) Op. Cit.; McConnell, D., & Llewellyn, D. (2002) 'Stereotypes, Parents with Intellectual Disability and Child Protection' 24 *Journal of Social Welfare and Family Law* 297.

- Repeal or modify all laws or policies that deny or diminish recognition of all persons as equal before the law, or a their ability to exercise legal capacity.



## Gender-Based Violence Against Women (List of Issues para 9)

Gendered violence against women and girls with disability in Australia remains unaddressed,<sup>22</sup> in spite of unequivocal evidence of the issue<sup>23</sup> and repeated recommendations from CEDAW<sup>24</sup> and other UN mechanisms.<sup>25</sup>

Women and girls with disability in institutional settings are at greater risk of violence<sup>26</sup> and experience significantly higher levels of all forms of violence, by a greater number of perpetrators, compared to their peers.<sup>27,28</sup>

The National Plan to Reduce Violence Against Women and their Children 2010-2022<sup>29</sup> fails women and girls with disability. It does not include, and is not responsive to, the forms of violence that women and girls with disability experience, or the settings in which such violence is perpetrated. It has not been operationalised within a comprehensive human rights framework;<sup>30</sup> has been consistently under-resourced; and, failed to fundamentally reduce rates of violence against women.<sup>31</sup>

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<sup>22</sup> Women and girls with disability in institutional settings frequently experiencing sustained and repeated episodes of violence. They are at greater risk of violence and experience significantly higher levels of all forms of violence by a greater number of perpetrators, compared to their peers. Children and young people with disability experience violence and abuse at approximately three times the rate of children without disability. See National Cross-Disability Disabled People's Organisations, *Senate Inquiry into Domestic Violence in Australia* (2014); Frohmader, C., and Sands, T., 'Fact Sheet: Violence Against People With Disabilities in Institutions and Residential Settings' (Fact Sheet, November 2015), Women With Disabilities Australia & People with Disability Australia. Available at: <http://www.pwd.org.au/documents/orgdocs/FS-Violence-PWD2014.doc>; Robinson, R. *Enabling and Protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability*. Issues Paper. This publication has been prepared by Children with Disability Australia. 2012 p:7; and Robinson, S. & McGovern, D. (2014) *Safe at School? Exploring safety and harm of students with cognitive disability in and around school*. Lismore, Centre for Children and Young People. Report completed for the NSW Law and Justice Foundation.

<sup>23</sup> Senate Community Affairs References Committee (2015) Op. Cit.

<sup>24</sup> CEDAW/C/AUL/CO/5; CEDAW/C/AUS/CO/7

<sup>25</sup> See UN Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Australia*, 31st session, UN Doc A/HRC/31/14 (13 January 2016).

<sup>26</sup> And particularly, sexual violence

<sup>27</sup> Frohmader, C., and Sands, T., 'Fact Sheet: Violence Against People With Disabilities in Institutions and Residential Settings' (Fact Sheet, November 2015), Women With Disabilities Australia & People with Disability Australia. Available at: <http://www.pwd.org.au/documents/orgdocs/FS-Violence-PWD2014.doc>

<sup>28</sup> In addition, children and young people with disability experience violence and abuse at approximately three times the rate of children without disability. See, Robinson, R. *Enabling and Protecting: Proactive approaches to addressing the abuse and neglect of children and young people with disability*. Issues Paper. This publication has been prepared by Children with Disability Australia. 2012 p:7; and Robinson, S. & McGovern, D. (2014) *Safe at School? Exploring safety and harm of students with cognitive disability in and around school*. Lismore, Centre for Children and Young People. Report completed for the NSW Law and Justice Foundation. P:7

<sup>29</sup> Council of Australian Governments (2011) *National Plan to Reduce Violence against Women and their Children 2010-2022*, Canberra. Accessed online at: <https://www.dss.gov.au/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children-2010-2022>

<sup>30</sup> See E/C.12/AUS/CO/4

<sup>31</sup> Australian Bureau of Statistics, 'Personal safety survey Australia 2012: Changes in prevalence of violence over time', cat. no. 4906.0, 2012 < <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4906.0Chapter2002012>

Australia has not established a centralised system for collecting disaggregated national data on gender-based violence against women, including women and girls with disability.

Australia has not established a Royal Commission into violence, abuse and neglect against people with disability, despite it being the headline recommendation from a 2015 Senate Inquiry into the issue, which found that violence against people with disability was an epidemic.<sup>32,33</sup>

## Recommendations

- Establish a Royal Commission into violence and abuse against people with disability.
- Establish an independent national protection mechanism that has broad powers to protect people with disability, investigate and enforce findings related to violence against people with disability.<sup>34</sup>
- Implement a nationally consistent framework to allow for the collection and analysis of disaggregated data across all jurisdictions, on all forms of gender-based violence against women and girls with disability.

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<sup>32</sup> Senate Community Affairs References Committee (2015) Op. Cit.; See also: Disabled People's Organisations Australia (2017) *Civil Society Statement to the Australian Government Calling for a Royal Commission into Violence, Abuse and Neglect of People with Disability*. Sydney: DPO Australia. Available at: <http://dpoa.org.au/civil-society-statement-rc/>

<sup>33</sup> The Australian Government ruled out the need for a Royal Commission, arguing that the National Disability Insurance Scheme (NDIS) Quality and Safeguards Framework and Commission will protect the rights of people with disability, despite the NDIS Quality and Safeguards Commission only overseeing safeguards for the 460,000 people with disability expected to be enrolled in the scheme by 2020. This is less than 10% of the Australian population of people with disability. See Australian Government (2017) *Government Response*. Canberra: Parliament of Australia. Available at: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Violence\\_abuse\\_neglect/Government\\_Response](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Government_Response)

<sup>34</sup> It should also address the multiple and aggravated forms of ill-treatment that result from the intersection of disability with other characteristics, including gender, age, indigenous status and racial, cultural or linguistic status.

## Participation in Political and Public Life (List of Issues para 13)

Women with disability continue to experience discrimination in many areas of civil life.<sup>35,36</sup>

In 2010, CEDAW expressed concern at the lack of progress toward ensuring equal participation of women with disability in leadership and decision-making positions in public and political life.<sup>37</sup> Australia has not adopted any measures to address the under-representation of women with disability in decision-making bodies.

Women and girls with disability who live in institutional settings have limited opportunities for meaningful decision-making and participation. They are regularly denied information and support to realise their human rights.<sup>38,39</sup>

### Recommendations

- Adopt measures to increase opportunities for equal participation of women and girls with disability in leadership and decision-making positions in public and political life.

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<sup>35</sup> Ibid.

<sup>36</sup> In particular, in relation to voting, accessing or creating a bank account, holding public office, holding the office of a director or board member, obtaining a violence protection order, creating a legal will, performing jury duty, and, acting as a witness in a court proceeding.

<sup>37</sup> CEDAW/C/AUS/CO/7

<sup>38</sup> Women with Disabilities Australia (2016a) Op. Cit.

<sup>39</sup> For all women with disability, exercising rights to full and effective participation is dependent on access to accurate, accessible and appropriate information. Yet many women and girls with disability are denied the right to seek, receive and impart information about decisions affecting their lives.

## Employment (List of Issues para 16)

The Australian Human Rights Commission's Willing to Work<sup>40</sup> inquiry identified multiple, persistent and unaddressed systemic barriers to employment for people with disability.<sup>41</sup>

The workforce participation rate for people with disability in Australia is low<sup>42</sup>, at 53.4%, compared to 83.2% for people without a disability.<sup>43</sup> Women with disability are less likely to be in the workforce compared to men with disability.<sup>44,45</sup>

Segregated employment of women with disability continues, despite calls for comprehensive systemic reform of Australia's disability employment framework.<sup>46</sup> As a whole, the disability employment framework remains inconsistent with Australia's human rights obligations.<sup>47</sup>

### Recommendations

- Implement the recommendations of the Australian Human Rights Commission's Willing to Work inquiry.
- Comprehensively reform Australia's disability employment framework to ensure it consistency with human rights obligations.<sup>48</sup>
- Develop a comprehensive national strategy to address the underlying structural barriers to economic participation for women and girls with disability.

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<sup>40</sup> Australian Human Rights Commission (2016) *Willing to Work: National Inquiry into Employment Discrimination Against Older Australians and Australians with a Disability*. Sydney: AHRC. Available at: <http://www.humanrights.gov.au/our-work/disability-rights/publications/willing-work-national-inquiry-employment-discrimination>

<sup>41</sup> In 2014-15, complaints about disability discrimination in employment comprised more than a third of discrimination complaints to the Australian Human Rights Commission. See Australian Human Rights Commission (2016) Op. Cit.

<sup>42</sup> Australia is ranked 21st out of 29 OECD countries for employment participation of people with disability.

<sup>43</sup> Australian Human Rights Commission (2016) Op. Cit.

<sup>44</sup> Department of Social Services (2014) *Progress Report to the Council of Australian Governments*.

<sup>45</sup> Women with disability who are Aboriginal or Torres Strait Islander, elderly, from culturally and linguistically diverse backgrounds, or who live in rural, regional and remote areas, are particularly at risk of experiencing significant discrimination and disadvantage in employment. See Disability Rights Now (2012) Op. Cit.

<sup>46</sup> While some reforms are underway, these have been limited and focused only on particular elements of the current disability employment framework.

<sup>47</sup> Disabled People's Organisations Australia (2018) *Response to Discussion Paper: A Strong Future for Supported Employment*. Sydney: DPO Australia. Available at: <http://dpoa.org.au/supported-employment-2018/>

<sup>48</sup> In conjunction with people with disability.

## Health (List of Issues para 17)

Women and girls with disability in Australia continue to experience a range of barriers and discriminatory practices<sup>49</sup> that prevent them from realising their right to health.<sup>50,51,52</sup>

Mental health services are significantly under-resourced and there are service access problems for people with disability. The NDIS<sup>53</sup> is failing to adequately support women and girls with psychosocial disability.<sup>54</sup>

Forced sterilisation of people with disability is an ongoing practice sanctioned by governments in Australia.<sup>55</sup> Since 2005, UN human rights treaty bodies, including CEDAW<sup>56</sup>, UN special procedures and international medical bodies<sup>57</sup> have recommended Australia prohibit forced sterilisation.

Forced contraception and menstrual suppression is a widespread, practice in Australia. It predominantly affects women and girls with disability and is rarely subject to independent monitoring or review.<sup>58</sup>

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<sup>49</sup> The Disability Discrimination Act 1992 (Cth) (DDA) has an exemption for insurance companies who may discriminate on the basis of disability so long as the discrimination is 'reasonable'. People with disability are often therefore unable to obtain life insurance, income protection or disability protection insurance. See: *Disability Rights Now* (2012) Op. Cit.

<sup>50</sup> In particular, women and girls with disability experience higher rates of poverty and housing stress; lower educational attainment; lower levels of health knowledge; inaccessible health information; inaccessible health services and supports; the impact of gender-based violence; high cost of health treatment; discrimination; poor quality treatment; and inadequately trained health professionals and specialists. See Women with Disabilities Australia (2018) *Women With Disabilities Australia (WWDA) Brief Submission to the Special Rapporteur on the Rights of Persons with Disabilities on the Right of Persons with Disabilities to the Highest Attainable Standard of Health*. Hobart: WWDA; Women with Disabilities Victoria (2018) *Access to Health Services for Women with Disabilities*. Melbourne: WDV.

<sup>51</sup> For women with intellectual disability, up to 42 percent of medical conditions go undiagnosed and life expectancy is reduced by up to 20 years. See NSW Council for Intellectual Disability, Inclusion Australia, Australian Association of Developmental Disability Medicine (2015) *Position Statement On The Health Of People With Intellectual Disability*. Available at: <http://aaddm.com.au/wp-content/uploads/AADDM-CID-Health-Position-Statement.pdf>

<sup>52</sup> In particular, women and girls with disability are more likely than men with disability and other women to face medical interventions that violate their sexual and reproductive rights. See Women With Disabilities Australia (2013), *Submission No 49 to Senate Standing Committee on Community Affairs, The Involuntary or Coerced Sterilisation of People with Disabilities in Australia*. Hobart: WWDA.

<sup>53</sup> National Disability Insurance Scheme. See <http://www.ndis.gov.au>

<sup>54</sup> <https://www.theguardian.com/australia-news/2018/jan/29/ndis-failing-people-with-severe-mental-health-issues-new-report-warns>

<sup>55</sup> Ibid.

<sup>56</sup> CEDAW/C/AUL/CO/7

<sup>57</sup> See CRC/C/15/Add.268; CRC/C/AUS/CO/4; A/HRC/17/10; CEDAW/C/AUL/CO/7; CAT/C/AUS/CO/4-5; A/HRC/WG.6/10/L.8; CRPD/C/AUS/CO/1; A/HRC/31/14; A/HRC/22/53; CCPR/C/AUS/Q/6; FIGO (International Federation of Gynaecology and Obstetrics), *Female Contraceptive Sterilization*, available at: <http://wwda.org.au/wp-content/uploads/2013/12/FIGOGuidelines2011.pdf> See also: World Medical Association (WMA) in conjunction with the International Federation of Health and Human Rights Organizations (IFHHRO) (2011) *Global Bodies call for end to Forced Sterilization: Press Release*, 5 September 2011. Available at: <http://wwda.org.au/issues/sterilise/sterilise2011/sterilwma2011/>

<sup>58</sup> Frohmader, C. (2013). *Dehumanized: The Forced Sterilisation of Women and Girls with Disabilities in Australia*. Rosny Park: WWDA. ISBN 978-0-9876035-0-0. Available at: <http://wwda.org.au/papers/subs/subs2011/> See also: Women with Disabilities Australia (2016b) Op. Cit.

Australia has failed to legislate against forced or coerced medical intervention on the bodies of people with intersex variations.<sup>59</sup>

Compulsory treatment of people with psychosocial disability remains possible under mental health laws in all States and Territories in Australia.<sup>60,61</sup>

## Recommendations

- Prohibit sterilisation of children, except where there is a serious threat to life.
- Prohibit sterilisation of adults with disability in the absence of their prior, independent, fully informed and free consent, except where there is a serious threat to life.
- Prohibit sterilisation, genital normalising and hormonal interventions on people with intersex variations without their prior, independent, fully informed and free consent.
- Implement national measures to address gendered health inequalities that affect women and girls with disability.<sup>62</sup>

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<sup>59</sup> *Re Carla (Medical procedure)* [2016] FamCA 7. See also: Morgan Carpenter, *The Family Court Case Re: Carla (Medical procedure)* [2016] FamCA 7 (8 December 2016) Intersex Human Rights Australia. Available at: <https://ihra.org.au/31036/re-carla-family-court/>.

<sup>60</sup> Bevan, N., and Sands, T., (2016) Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia', Australian Cross Disability Alliance (ACDA); Sydney, Australia, paras 21-26 and 37-44.

<sup>61</sup> Such as, psychosurgery, electro-convulsive therapy, sterilisation of involuntary patients, and harmful practices such as chemical, mechanical and physical restraint or seclusion.

<sup>62</sup> With a particular focus on Aboriginal and Torres Strait Islander women with disability and women living in rural and remote communities.

## Rural Women (List of Issues para 18)

Women with disability living in rural and remote communities are disadvantaged by a lack of available and accessible services, information, and education. As a result, they are more susceptible to violence, exploitation and abuse.<sup>63,64,65</sup>

### Recommendations

- Ensure policy and programs addressing violence against women include specific measures to address violence against women with disability who live in regional, rural and remote areas.
- Increase funding for legal assistance and support services to women with disability who live in regional, rural and remote areas.

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<sup>63</sup> Women with Disabilities Australia (2013) *Stop the Violence: Addressing Violence Against Women and Girls with Disabilities in Australia – Background Paper*. Hobart: WWDA.

<sup>64</sup> Aboriginal and Torre Strait Islander women with disability represent a high proportion of women living in rural and remote communities. In addition, women with psychosocial and intellectual disability living in rural and remote locations are particularly disadvantaged, often having little or no income and limited formal and informal supports.

<sup>65</sup> Indigenous Australians with Mental Health Disorders and Cognitive Disabilities in the Criminal Justice System Project (2015). Access at: [www.mhdcd.unsw.edu.au](http://www.mhdcd.unsw.edu.au)

## Women in Detention (List of Issues para 20)

Women and girls with disability, and particularly Aboriginal and Torres Strait Islander women and girls with disability,<sup>66</sup> are significantly over-represented in the justice system.<sup>67</sup> Many are deprived of liberty and security without lawful authority<sup>68</sup> and face higher rates of deprivation of their liberty<sup>69</sup> than the general population.<sup>70</sup>

Aboriginal and Torres Strait Islander people with disability are up to 14 times more likely to be imprisoned than non-Indigenous people and this rate is increasing.<sup>71</sup> Women with a psychosocial or intellectual disability are likely to spend longer in custody, less likely to be granted parole and have limited access to diversionary programs.<sup>72</sup>

Legislation in some Australian states and territories allows for indefinite detention of people with intellectual disability without conviction.

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<sup>66</sup> *The Redfern Statement 2016: Aboriginal and Torres Strait Islander Peak Organisations Unite*; accessed online at: <http://nationalcongress.com.au/about-us/redfern-statement/>; Bevan, N., and Sands, T., (2016) Op. Cit.; Senate Community Affairs References Committee (2016) *Indefinite detention of people with cognitive and psychiatric impairment in Australia*; available at:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/IndefiniteDetention45/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/IndefiniteDetention45/Report)

<sup>67</sup> Frohmader, C. and Sands, T. (2015) *Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings*. Sydney: ACDA. Available at: <http://wwda.org.au/papers/subs/subs2011/>

<sup>68</sup> Frohmader, C. and Sands, T. (2015) OpCit.

<sup>69</sup> Senate Legal and Constitutional Affairs References Committee (June 2013) *Value of a justice reinvestment approach to criminal justice in Australia*. Available at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed\\_inquiries/2010-13/justicereinvestment/report/index](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2010-13/justicereinvestment/report/index); Australian Council of Human Rights Authorities (ACHRA) *Communiqué* (28 April 2017), Available at: <https://www.humanrightscommission.vic.gov.au/home/news-and-events/commission-news/item/1557-australian-council-of-human-rights-authorities-communique-28-april-2017>

<sup>70</sup> Bevan, N., and Sands, T., (2016) Op. Cit. See also: Senate Community Affairs References Committee (2016) *Indefinite detention of people with cognitive and psychiatric impairment in Australia*; available at: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/IndefiniteDetention45/Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/IndefiniteDetention45/Report)

<sup>71</sup> Senate Select Committee on Regional and Remote Indigenous Communities, Parliament of Australia, *Indigenous Australians, Incarceration and the Criminal Justice System* (March 2010).

<sup>72</sup> Ibid.



## **Recommendations**

- Implement gender and culture specific diversionary programs and mechanisms and community-based sentencing options.
- Take immediate measures to reduce the number of women with disability in prison and other institutional settings, with a particular focus on Aboriginal and Torres Strait Islander women and girls with disability.
- Establish uniform national legislation to end indefinite detention of people with disability without conviction.