



WOMEN
WITH
DISABILITIES
AUSTRALIA
(WWDA)

Women With Disabilities Australia (WWDA)

Submission to the Attorney-General's Department in response to the Australian Government's Draft Sixth Periodic Report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

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Introduction

1. Women With Disabilities Australia (WWDA)¹ thanks the Attorney-General's Department for the opportunity to contribute feedback in response to the Australian Government's Draft Sixth Periodic Report under the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT).
2. WWDA is the national, non-government Disabled People's Organisation (DPO)² for women and girls with all types of disability in Australia. WWDA operates as a transnational rights based organisation and is run by women with disability, for women and girls with disability. WWDA also works with partners and allies³ who share our commitment. WWDA's work is grounded in a rights framework which links gender and disability issues to a full range of civil, political, economic, social and cultural rights. Representing more than two million disabled women and girls in Australia, WWDA is nationally and internationally recognised for our leadership in advancing the human rights of women and girls with disability. Strengthening the promotion and protection of the rights of women and girls with disability is at the foundation of WWDA's work.⁴
3. This brief Submission from WWDA does not endeavour to respond to all the issues detailed in the Australian Government's Draft Sixth Periodic Report to CAT (the Draft Report). Rather, this Submission from WWDA aims to highlight just some key issue areas for consideration by the Attorney-General's Department for the purposes of finalising the Draft Report. In addition, WWDA would welcome the opportunity to provide more specific information through a key stakeholder interview if useful, as well as through further consultation opportunities should they arise.

Violence Against Women

4. Whilst the Draft Sixth Periodic Report acknowledges the Australian Government's efforts to address violence against women, the report appears to primarily focus on two 'types' of violence against women (sexual violence/assault and 'domestic/family violence'). What emerges from the Draft Report is an apparent underlying assumption that 'violence against women' means 'domestic and family violence and/or sexual violence/assault' and vice-versa.
5. Conceptualising 'violence against women' principally as 'domestic/family violence' and and/or 'sexual violence/sexual assault', conceals (and renders invisible), structural and institutional forms of gender-based violence related to law, the state and culture that women and girls with disability (and other marginalised groups of women) not only experience, but are more at risk of⁵ – such as forced sterilisation, forced abortion, forced contraception, denial of legal capacity, forced treatment, restrictive practices, seclusion, restraint, indefinite detention, and forced and coerced marriage.⁶ In addition, it also excludes many of the settings and spaces in which women and girls with disability (and others) experience, and are at risk of violence (including for eg: prisons, segregated settings, detention centres, and other forms of institutional settings).
6. In this context, it is regrettable that the Draft Report focuses on narrow concepts of 'violence against women' which do not reflect contemporary understandings of what constitutes violence against women nor the complexity of the myriad of forms it takes, and the vast settings and contexts in which it occurs.
7. For example, in 2017, in its revised General Recommendation on 'Gender-based Violence Against Women'⁷ the United Nations *Committee on the Elimination of Discrimination against Women*, recognised the need to provide more detailed authoritative guidance to States parties in order to accelerate the elimination of **all** forms of gender-based violence against women. In so doing, the Committee clarified that:

“gender-based violence against women, whether committed by States, intergovernmental organisations or non-state actors, including private persons and armed groups, remains pervasive in all countries of the world, with high levels of impunity. It manifests in a continuum of multiple, interrelated and recurring forms, in a range of settings, from private to public, including technology-mediated settings and in the contemporary globalized world it transcends national boundaries.”

8. Furthermore, the CEDAW Committee made explicit that:

Violations of women's sexual and reproductive health and rights, such as forced sterilizations, forced abortion, forced pregnancy, criminalisation of abortion, denial or delay of safe abortion and post-abortion care, forced continuation of pregnancy, abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may

amount to torture or cruel, inhuman or degrading treatment. ⁸ [emphasis added]

9. In this context, and bearing in mind that Australia is a party to the *Convention on the Elimination of All Forms of Discrimination against Women* ([1983] ATS 9), the Draft Report could be strengthened by clearly acknowledging the need for Australia to improve its efforts to address **all** forms of violence against women, particularly egregious forms of gender-based violence that are recognised to disproportionately affect marginalised cohorts of women and girls (including for eg: women and girls with disability; women from CALD backgrounds; Aboriginal and Torres Strait Islander women; women in prisons; and so on).⁹

10. The Draft Report articulates that:

“the Personal Safety Survey (PSS) is a national survey conducted by the Australian Bureau of Statistics (ABS). The PSS collects detailed information from men and women about the nature of violence experienced since the age of 15.....The PSS is the most comprehensive prevalence data source available in Australia.”

11. Although the PSS is *“the most comprehensive prevalence data source available in Australia”*, it is widely recognised that the PSS has significant methodological restrictions and limitations. For example, the PSS systematically excludes people with disability living in institutional settings (i.e. not in a private home), and those who live in remote areas, where Aboriginal and Torres Strait Islander people with disability are over-represented.¹⁰ The PSS data collection methods do not involve inclusive research practices. The PSS is performed by an interviewer and a specific requirement of the survey is that all interviews are conducted alone in a private setting. Interpreters and support persons are excluded, and where a respondent requires the assistance of another person to communicate with the interviewer, the interview is not conducted.¹¹ These methodological restrictions mean that the PSS not only misses (and excludes) a very significant proportion of people with disability, but it also means that reported data from the PSS relating to women with disability is inherently misleading.

12. The Draft Report could be strengthened by acknowledging these methodological limitations of the PSS, which have significant ramifications in relation to addressing the epidemic that is violence against women and girls with disability. In addition, the Draft Report could be enhanced by providing information on how the Australian Government intends to ensure that data on **all** forms of violence against women (including women with disability) will be collected and disaggregated.

13. The Draft Report makes no mention of the *Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings*.¹² This Inquiry found that violence and abuse against people with disability – (particularly women and girls with disability)¹³ is an ‘epidemic’

in Australia - not limited to 'institutional settings' but so prolific and systemic that a Royal Commission¹⁴ is urgently warranted.¹⁵

14. In March 2017, the Australian Government provided its formal response¹⁶ to the Report of the Senate Inquiry, ruling out the need for a Royal Commission, arguing that the NDIS Quality and Safeguards Framework¹⁷ and Commission¹⁸ will "protect the rights of people with disability".¹⁹ However, at full scheme in 2020, the NDIS Quality and Safeguards Commission will oversee safeguards for 460,000 NDIS participants²⁰ which equates to less than 10% of the Australian population of people with disability. Whilst the NDIS Quality and Safeguards Commission is an important mechanism in efforts to address violence against people with disability, it clearly will not – and cannot – address the myriad of forms of violence perpetrated against women and girls with disability, including the vast settings and contexts in which such violence occurs.
15. In May 2017 more than 120 Australian academics signed an open letter urging the Prime Minister to establish a Royal Commission into Violence against People with Disability.²¹ In May 2017, a Civil Society Statement²² co-ordinated by Disabled People's Organisations Australia (DPOA),²³ and endorsed (within one week) by 163 civil society organisations and almost 400 individuals - was issued to Prime Minister calling for a Royal Commission into Violence and Abuse against People with Disability.²⁴
16. Many of the human rights treaty bodies have consistently called on successive Australian Governments to address all forms of violence against people with disability, including urgent and specific recommendations to address the epidemic that is violence against women and girls with disability.
17. The Committee on Economic, Social and Cultural Rights in its 2017 review of Australia's fifth periodic report²⁵ under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) specifically recommended that:

*"The State party fully implement the recommendations put forward in the inquiry report by the Senate Community Affairs References Committee into violence, abuse and neglect against people with disability in institutional and residential settings (2015), including the creation of a **Royal Commission** to inquire into violence and abuse against people with disabilities."* ²⁶ [emphasis added]

18. In its List of Issues prior to the submission of the combined second and third periodic reports of Australia ²⁷ (released in late 2017), the Committee on the Rights of Persons with Disabilities, has specifically requested the Australian Government to:

*Please provide information on measures taken to implement the recommendations of the Senate Community Affairs References Committee's 2016 report, "Violence, abuse and neglect against people with disability in institutional and residential settings", in particular its recommendation to establish a **Royal Commission** into*

violence, abuse and neglect of people with disability (recommendation 1). [emphasis added]

*Please provide information on how public programmes and policies on the prevention of gender-based violence, especially the National Plan to Reduce Violence against Women and their Children (2010-2022), **recognize and address all of the various forms of violence perpetrated against women and girls with disabilities**, including in institutions and residential settings and with respect to their sexual and reproductive health rights. Please also provide information about the resources allocated and the steps taken to improve support and services to women with disabilities who experience or are at risk of violence and sexual abuse. [emphasis added]*

19. Similarly, the review undertaken in 2017 by the Human Rights Committee on Australia’s compliance with the *International Covenant on Civil and Political Rights* (ICCPR),²⁸ and the 2018 review of Australia’s compliance under the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW)²⁹ both resulted in strong recommendations²⁹ to the Australian Government on the urgent need to address **all** forms of violence against women and girls with disability.

20. The Draft Report could be therefore strengthened by acknowledging the *Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings*, including information on current and intended work by the Australian Government to address the recommendations stemming from the Inquiry Report. Additionally, despite the fact that the current Australian Government does not consider that a Royal Commission is needed, the Draft Report would be enhanced by acknowledging the strong recommendations by civil society and human rights treaty bodies and UN special procedures,³⁰ for a Royal Commission into all Forms of Violence against People with Disability.

Sterilisation

21. WWDA is deeply concerned about the way the Australian Government has sought to address the issue of sterilisation in the Draft Report. The Draft Report states, in part that:

“The Australian Government is committed to respecting the rights of all persons to physical integrity and reproductive rights.....The regulation of sterilisation of adults with disability is primarily a state and territory issue.”³¹

22. For more than 13 years, United Nations treaty monitoring bodies, the UN General Assembly, UN Special Procedures and international medical bodies ³² have categorically confirmed that forced sterilisation³³ of children (and of adult women with disability without their prior, full and informed consent) is a clear breach of some of the most fundamental human rights – including the right to

bodily integrity; the right to freedom from violence; the right to privacy; the right to equality before the law; and the right to freedom from torture and other cruel, inhuman or degrading treatment or punishment. Forced sterilisation is recognised as a particularly egregious form of gender-based violence that has no place in a civilized world.³⁴

23. For over a decade, several of the treaty monitoring bodies have made it clear that the Australian Government must act to develop and enact national, uniform and legally enforceable legislation prohibiting the sterilisation of children, and the sterilisation of adults with disability in the absence of their prior, fully informed and free consent.
24. In addition, the treaty monitoring bodies have continued to express concern that the Australian Government continues to consider forced sterilisation of women and girls with disability as a matter for state governments to regulate. They have clarified that decentralising government power through devolution or delegation does not negate the obligation on a State party to enact **national legislation** that is applicable throughout its jurisdiction.³⁵
25. To date, Australia's response³⁶ to these recommendations has retained the focus on regulation and non-binding guidelines rather than prohibition. Australian Governments remain of the view that it is an acceptable practice to sterilise children and adults with disability, provided that they 'lack capacity' and that the procedure is in their 'best interest', as determined by a third party.³⁷
26. The Committee Against Torture last reviewed Australia's compliance with the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, in 2014 at its 53rd session.³⁸ The Committee was unequivocal in its determination of forced sterilisation as a form of torture, and expressly re-iterated the recommendation of several other treaty monitoring bodies that Australia:

*"enact uniform national legislation prohibiting, except where there is a serious threat to life or health, the use of sterilisation without the prior, free and informed consent of the person concerned, and that it ensure that, once adopted, this legislation is effectively applied".*³⁹

27. More recent reviews by UN treaty monitoring bodies, of Australia's compliance under a number of the human rights treaties to which Australia is a party, have continued to re-iterate the urgent need for the Australian Government to develop **national** legislation to prohibit (rather than "regulate") involuntary sterilisation.
28. The 2018 review by the Committee on the Elimination of All Forms of Discrimination against Women of Australia's compliance under the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW)⁴⁰ made strong recommendations in relation to forced sterilisation:

"Abolish the practice of non-consensual administration of contraceptives, abortion and sterilization of women and girls with disabilities, and develop and enforce strict

guidelines on sexual and reproductive health rights of women and girls with disabilities who are unable to consent.”⁴¹

29. In 2017, the Human Rights Committee in reviewing Australia’s compliance with the *International Covenant on Civil and Political Rights* (ICCPR),⁴² expressed its concern about the compatibility of the practice of involuntary non-therapeutic sterilisation of women and girls with intellectual disabilities and/or cognitive impairments with the provisions of the Covenant, particularly those concerning the prohibition against cruel, inhuman and degrading treatment, the right to privacy and equality before the law (arts. 2, 7, 17, 24 and 26). The Human Rights Committee subsequently recommended that:

“The State party should abolish the practice of involuntary non-therapeutic sterilization of women and girls with intellectual disabilities and/or cognitive impairments.”⁴³

30. The Committee on Economic, Social and Cultural Rights in its 2017 review of Australia’s fifth periodic report⁴⁴ under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) specifically recommended that the State Party:

“Repeal all legislation that authorizes medical intervention without the free, prior and informed consent of the persons with disabilities concerned, abolishing the use of restraint and the enforced administration of intrusive and irreversible treatments. In that regard, the State party is encouraged to take into account the 2013 report of the Senate Community Affairs References Committee entitled “Involuntary or coerced sterilisation of people with disabilities in Australia”.”⁴⁵

31. And, in its List of Issues prior to the submission of the combined second and third periodic reports of Australia⁴⁶ in relation to its compliance with the *Convention on the Rights of Persons with Disabilities* (CRPD) (released in late 2017), the Committee on the Rights of Persons with Disabilities, has specifically requested the Australian Government to:

Please provide information on the measures taken to harmonize the legal frameworks at the national, state and territory levels that, in the absence of the free, prior and informed consent of the person concerned, prohibit the following:
(a) Sterilization of children and adults with disabilities;
(b) Administration of unnecessary medical interventions, with particular attention to an individual’s sexual and reproductive health and to people born with variations of sex characteristics.

32. Australia is a party to seven core international human rights treaties, all of which create obligations to promote the rights of people with disability. Together, these seven international human rights treaties provide a comprehensive framework to delineate the respective obligations and responsibilities of governments and other duty-bearers to create a holistic framework of rights promotion and rights protection (including redress for rights violations) for people with disability.⁴⁷ As a party to these treaties, Australia has chosen to be bound by the treaty requirements, and has an international obligation to ‘give good faith effect to their terms’⁴⁸ and implement the treaty provisions

through its domestic laws and policies. As highlighted by Emeritus Professor Shearer during the 2013 *Senate Inquiry into Involuntary or coerced sterilisation of people with disabilities in Australia*:

“Australia's domestic laws should not depart from the views and recommendations of United Nations committees and officials without sound and compelling policy reasons.” ⁴⁹

33. It is clear that the Australian Government’s approach to the issue of forced sterilisation is not only inconsistent with the human rights treaties to which Australia is a party, but continues to ignore the multitude of recommendations stemming from many UN mechanisms, international medical bodies, civil society, and most importantly, the expressed views from those who forced sterilisation affects the most – women and girls with disability.

34. It is now obvious that the Australian Government should act to authorise national, uniform and legally enforceable legislation prohibiting the sterilisation of children, and the sterilisation of adults in the absence of their prior, fully informed and free consent. In this context, the Australian Government’s Draft Sixth Periodic Report, would be significantly strengthened and much more authentic, if it acknowledged these strong recommendations, and made a clear statement as to how the Australian Government will work to address these recommendations at a national level. Women and girls with disability deserve nothing less.

Endnotes

¹ WWDA works at regional, state/territory, national and international levels; services a direct and fast growing individual membership; undertakes substantial evidence-based research; implements projects at national and international levels; undertakes systemic advocacy; and, provides extensive policy advice and expertise to a wide and growing range of stakeholders, including at all levels of government, non-government, researchers, industry groups, United Nations machinery, and more. For detailed information about WWDA, go to: <http://wwda.org.au/>

² Disabled People's Organisations (DPO's) are recognised around the world and in international human rights law as self-determining organisations led by, controlled by, and constituted of, people with disability. The 'will and preferences of people with disability' are at the top of the hierarchy in decision making of DPO's. Importantly, DPO's are organisations "of" people with disability, as opposed to organisations "for" people with disability. See for eg: United Nations General Assembly (12 January 2016) *Report of the Special Rapporteur on the rights of persons with disabilities*. Human Rights Council, Thirty-first session. UN Doc. No. A/HRC/31/62.

³ WWDA works as a member organisation of Disabled People's Organisations Australia (DPO Australia), an alliance of four national disabled people's organisations (DPO's) 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. The four member organisations of DPO Australia are: Women with Disabilities Australia (WWDA); People with Disability Australia (PWDA); the National Ethnic Disability Alliance (NEDA); and, the First People's Disability Network Australia (FPDN). See: <http://dpoa.org.au/> WWDA also works in collaboration with national and state/territory organisations across a wide range of sectors.

⁴ For more information please see *WWDA Strategic Plan 2017 – 2021* available at <http://wwda.org.au/about/stratplan/>

⁵ Pease, B. (2015), *Critical gender theory, gender inequality and men's violence against women*: An Our Watch think piece paper. Paper prepared for Our Watch, Australia's National Research Organisation for Women's Safety (ANROWS) and VicHealth (2015) *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia*, Our Watch, Melbourne, Australia.

⁶ Frohmader, C., & 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*. Australian Cross Disability Alliance (ACDA); Sydney, Australia. Available at: <http://wwda.org.au/papers/subs/subs2011/>

⁷ Committee on the Elimination of Discrimination against Women (14 July 2017); *General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19*. UN Doc No: CEDAW/C/GC/35.

⁸ Ibid.

⁹ See for eg: *The Council of Europe Convention on preventing and combating violence against women and domestic violence* [The Istanbul Convention] available at: <https://www.coe.int/en/web/istanbul-convention/home>

¹⁰ The National Aboriginal and Torres Strait Islander Social Survey (NATSISS) also operates within these sampling parameters. <http://www.abs.gov.au/AUSSTATS/abs@.nsf/mf/4714.0>

¹¹ <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4906.0Explanatory%20Notes12012?OpenDocument>

¹² In January 2015, a coalition of peak disability advocacy groups renewed the campaign for a '*National inquiry into violence against people with disability in institutional and residential settings*' by writing to the then Prime Minister. The letter was endorsed by over 95 state and territory based disability and other organisations from around Australia. Available at: <http://wwda.org.au/issues/viol/viol2011/> and supported by over 11,000 signatories to a petition calling for an inquiry (See: <https://www.change.org/p/tony-abbott-to-urgently-launch-a-national-inquiry-into-violence-neglect-and-abuse-against-people-with-disability-in-residential-and-institutional-settings>). In response, a group of Senators referred the matter on 11 February 2015 to the Senate Community Affairs References Committee. The *Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings* was conducted during 2015 and the final Report was published on 25 November 2016 (available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report

¹³ The *Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings*, found that violence and abuse against people with disability is an 'epidemic' in Australia and particularly affects women and girls with disability.

¹⁴ A *Royal Commission* is an inquiry initiated by the executive arm of a state or federal government, to examine and report on issues of public importance or concern. The legal power to establish a Royal Commission is exercised by the Governor General on behalf of the Crown (or the Governor of a State in the case of state Royal Commission), acting on the advice of Government ministers. The Australian Parliament has made a law confirming this power (Royal Commissions Act 1902 (Cth)) and regulating, to some limited degree, how Commonwealth Royal Commissions are to be conducted. See: <http://commissionwatch.com.au/what-is-a-royal-commission/>

¹⁵ The critical need for a '*Royal Commission into Violence against People with Disability*' was the headline and key recommendation from the Senate Inquiry into '*Violence, abuse and neglect against people with disability in institutional and residential settings*'. See the Senate Committee's Final Report at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report

¹⁶ Australian Government Response to the Senate Community Affairs References Committee report; accessed at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Government_Response

¹⁷ The *NDIS Quality and Safeguards Framework* is 'A framework of nationally consistent measures and requirements to minimise the risk of harm to people with disability and to ensure high quality support through the NDIS.' For more information on the NDIS Quality and Safeguards Framework, go to: <https://www.dss.gov.au/disability-and-carers/programs-services/for-people-with-disability/ndis-quality-and-safeguarding-framework>

¹⁸ The *National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission* (the Commission) is 'a new, independent Commonwealth body responsible for implementing the Commonwealth functions of registration; complaints and reportable incidents; and oversight of behaviour support under the Framework. Taken from: Australian Department of Social Services (DSS) (May 2017) at: <https://engage.dss.gov.au/ndis-code-of-conduct-consultation/ndis-code-of-conduct-consultation-discussion-paper/>

¹⁹ Australian Government Response to the Senate Community Affairs References Committee report; accessed at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Government_Response

²⁰ See: 'Guaranteeing the NDIS and providing stronger support for people with disability', Joint Media Release by Hon Christian Porter, Senator the Hon Zed Seselja, and The Hon Jane Prentice. 9 May 2017. Accessed online May 2017 at: <http://christianporter.dss.gov.au/media-releases/guaranteeing-the-ndis-and-providing-stronger-support-for-people-with-disability> See also: <http://theconversation.com/understanding-the-ndis-many-eligible-people-with-disabilities-are-likely-to-miss-out-61016>

²¹ See: <https://disabilityroyalcommissionnow.wordpress.com/2017/04/05/open-letter/>

²² The *Civil Society Statement* calling for a Royal Commission is available at: <http://dpoa.org.au/civil-society-statement-rc/>

²³ See: <http://dpoa.org.au/>

²⁴ See also: <http://www.abc.net.au/news/2017-06-09/royal-commission-into-abuse-of-people-with-disability/8602508> See also: <https://probonoaustralia.com.au/news/2017/06/civil-society-backs-calls-royal-commission-disability-violence/>

²⁵ See: E/C.12/AUS/5

²⁶ See: E/C.12/AUS/CO/5

²⁷ See: CRPD/C/AUS/QPR/2-3

²⁸ See: CCPR/C/AUS/CO/6

²⁹ See: CEDAW/C/AUS/CO/8

³⁰ See for eg: A/C.3/72/L.18/Rev.1; See also: A/HRC/38/47/Add.1

³¹ Australian Government's *Draft Sixth Periodic Report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*, at Paras 373 and 374.

³² See for eg: CRPD/C/AUS/QPR/2-3; E/C.12/AUS/CO/5; A/C.3/72/L.18/Rev.1; A/HRC/38/47/Add.1; CCPR/C/AUS/CO/6; CEDAW/C/AUS/CO/8; CRC/C/15/Add.268; CRC/C/AUS/CO/4; A/HRC/17/10; CEDAW/C/AUS/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 Gynecology 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/>

³³ 'Forced sterilization' refers to the performance of a procedure which results in sterilization in the absence of the prior, free and informed consent of the individual who undergoes the procedure, including instances in which sterilization has been authorized by a third party, without that individual's consent. This is considered to have occurred if the procedure is carried out in circumstances other than where there is a serious threat to life. Coerced sterilization occurs when financial or other incentives, misinformation, misrepresentation, undue influences, pressure, and/or intimidation tactics are used to compel an individual to undergo the procedure. Coercion includes conditions of duress such as fatigue or stress. Undue influences include situations in which the person concerned perceives there may be an unpleasant consequence associated with refusal of consent. Any sterilization of a child, unless performed as a life-saving measure, is considered a forced sterilization. See for example: Center for Reproductive Rights (2010) *Reproductive Rights Violations as Torture and Cruel, Inhuman, or Degrading Treatment or Punishment: A Critical Human Rights Analysis*; Center for Reproductive Rights, New York. Juan E. Mendez, Special Rapporteur, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, 22nd sess, UN Doc A/HRC/22/53; Manjoo, Rashida (2012), OpCit; African Gender and Media Initiative (2012) *Robbed of Choice: Forced and Coerced Sterilization experiences of Women Living with HIV in Kenya*; Available at: <https://profiles.uonbi.ac.ke/kihara/files/report-on-robbed-of-choice-forced-and-coerced-sterilization-experiences-of-women-living-with-hiv-in-kenya.pdf>; Nair, P. (2011) *Litigating Against Forced Sterilization if HIV-Positive Women: Recent Developments in Chile and Namibia*. *Harvard Human Rights Journal*, Vol.23, pp.223-231. See also: Frohmader, C. (2013) *'Dehumanised: The Forced Sterilisation of Women and Girls with Disabilities in Australia'*. WWDA Submission to the Senate Inquiry into the involuntary or coerced sterilisation of people with disabilities in Australia. Prepared for Women with Disabilities Australia (WWDA), Tasmania. ISBN: 978-0-9876035-0-0. See also: Frohmader, C., & 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'*. Australian Cross Disability Alliance (ACDA); Sydney, Australia. Available at: http://wwda.org.au/wp-content/uploads/2013/12/ACDA_Sub_Sen_Inquiry_Violence_Institutions.pdf

³⁴ Women With Disabilities Australia (WWDA) *'WWDA Position Statement 4: Sexual and Reproductive Rights'*. WWDA, September 2016, Hobart, Tasmania. ISBN: 978-0-9585269-6-8. Available at: http://wwda.org.au/wp-content/uploads/2016/10/Position_Statement_4_-_Sexual_and_Reproductive_Rights_FINAL_WEB.pdf

³⁵ See for eg: Committee on the Elimination of Discrimination against Women (1991) *General recommendation No. 18: Disabled women*. UN Doc. No. A/46/38

³⁶ Australian Government, *Australian Government response to the Senate Community Affairs References Committee Reports* (May 2015), accessed online June 2015 at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilisation/Government_Response

³⁷ Community Affairs References Committee, *Involuntary or coerced sterilization of people with disabilities in Australia*. July 2013, Available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilisation

³⁸ Committee against Torture, *Concluding observations on the combined fourth and fifth periodic reports of Australia*, 53rd sess, UN Doc No. CAT/C/AUS/CO/4-5 (23 December 2014).

³⁹ Ibid.

⁴⁰ See: CEDAW/C/AUS/CO/8

⁴¹ Ibid.

⁴² See: CCPR/C/AUS/CO/6

⁴³ Ibid.

⁴⁴ See: E/C.12/AUS/5

⁴⁵ Ibid.

⁴⁶ See: CRPD/C/AUS/QPR/2-3

⁴⁷ The UN Special Rapporteur on Torture has emphasised this: "it is necessary to highlight additional measures needed to prevent torture and ill-treatment against people with disabilities, by synthesizing standards and coordinating actions in line with the CRPD". See: A/HRC/22/53 Juan E. Mendez, para, 62.

⁴⁸ Community Affairs References Committee, *Involuntary or coerced sterilization of people with disabilities in Australia*. July 2013, Available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilisation

⁴⁹ Shearer, Emeritus Professor; cited in Community Affairs References Committee, *Involuntary or coerced sterilization of people with disabilities in Australia*. July 2013, Available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilisation