



Women
With
Disabilities
Australia
(WWDA)

WWDA **3** POSITION STATEMENT THE RIGHT TO PARTICIPATION

The right to participate in political, economic, social and cultural life is a fundamental human right to which all women and girls with disability are entitled



PUBLISHING INFORMATION

Women With Disabilities Australia (WWDA) 'WWDA Position Statement 3: The Right to Participation'. WWDA, September 2016, Hobart, Tasmania.

Acknowledgments

The development of this position statement was made possible through project funding from the Australian Government Department of Prime Minister and Cabinet.

WWDA acknowledges the traditional owners of the land on which this publication was produced. We acknowledge Aboriginal and Torres Strait Islander people's deep spiritual connection to this land. We extend our respects to community members and Elders past, present and becoming.

Disclaimer

Aboriginal and Torres Strait islander peoples are respectfully advised that this publication may include images of people who are deceased.

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-  **Winner**
National Human Rights Award 2001
-  **Winner**
National Violence Prevention Award 1999
-  **Winner**
Tasmanian Women's Safety Award 2008
-  **Nominee**
French Republic's Human Rights Prize 2003
-  **Nominee**
UN Millennium Peace Prize for Women 2000
-  **Certificate of Merit**
Australian Crime & Violence Prevention Awards 2008

CONTENTS

1	WWDA POSITION ON THE RIGHT TO PARTICIPATION	4
2	INTRODUCTION	6
3	THE EVIDENCE	7
4	INTERNATIONAL HUMAN RIGHTS OBLIGATIONS: THE RIGHT TO PARTICIPATION	11
5	INTERNATIONAL HUMAN RIGHTS COMPLIANCE: THE RIGHT TO PARTICIPATION	20
6	RECOMMENDATIONS: THE RIGHT TO PARTICIPATION	27
7	SPEAKING OUT AND ACCESSING SUPPORT	28
8	ENDNOTES	29

1 WWDA POSITION ON THE RIGHT TO PARTICIPATION

- ▶ WWDA believes the right to participate directly and indirectly in political, economic, social and cultural life is a fundamental human right to which all women and girls with disability are entitled.
- ▶ WWDA believes accurate and accessible information is a prerequisite for the active, free, informed, relevant and meaningful participation of women and girls with disability in all matters.
- ▶ WWDA believes organisations governed by, led by and constituted of women and girls with disability, are crucial for ensuring that women and girls with disability can organise in their own interests, address the barriers to their effective participation, and to provide a mechanism to enable their participation and engagement in all forms of decision-making, including the development of relevant policies, programs, and services.
- ▶ WWDA believes the widespread denial of the right to social, cultural, economic and political participation is continuing unabated due to deep-rooted inequality and extreme forms of discrimination against women and girls with disability.
- ▶ WWDA believes the right to freedom from all forms of violence, gender inequality and the full enjoyment of sexual and reproductive rights is critical to the meaningful participation of women and girls with disability in personal, social and political life.

Recommendations

Mandated through Australia's international human rights obligations, and based on the evidence, voices, experiences, and expertise of women and girls with disability, WWDA offers the following key recommendations as critical to promoting the right to participation for all women and girls with disability.

1. WWDA calls on the Australian Government to provide long-term support, including core support and resources for capacity building, to human rights based organisations constituted by, of and for women and girls with disability.
2. WWDA calls on the Australian Government to ensure decision-making, participation and capacity building of women and girls with disability are integral to all policy and programmatic efforts to end violence against women.
3. WWDA calls on the Australian Government to commission and fund a comprehensive assessment of the situation of women and girls with disability, in order to establish a baseline of disaggregated data and information against which compliance with the UN treaties (to which Australia is a party) and national policy frameworks can be measured and monitored.
4. WWDA calls on the Australian Government to establish and recurrently fund through the Council of Australian Governments (COAG) a National 'Women with Disability Leadership Grants Program' to provide capacity building opportunities that recognise women with disability as active agents with rights and responsibilities, and which actively promote and enable their agency, dignity, autonomy and empowerment.
5. WWDA calls on the Australian Government to ensure that all government departments and agencies at all levels, provide accurate and accessible information concerning issues relevant to women and girls with disability which can support women and girls with disability to meaningfully participate in matters affecting their lives.
6. WWDA calls on the Australian Government to immediately withdraw its Interpretative Declarations on CRPD Article 12 [Equal recognition before the law] Article 17 [Protecting the integrity of the person] and Article 18 [Liberty of movement and nationality].



**PARTICIPATION OF DISABLED WOMEN
AS EQUAL CITIZENS IS CENTRAL TO
THE RECOGNITION OF OUR DIGNITY**



2 INTRODUCTION

Meaningful participation across all aspects of cultural, social, economic and political life plays a significant role in the promotion of democratic governance, law, human development, empowerment, social inclusion, economic development, and the realisation of all other human rights.

Participation of disabled women as citizens is at the basis of the recognition of their dignity. For women and girls with disability, participation in social and political life and ensuring an adequate standard of living depends on their equal access to social structures and supports including education, employment, health care and housing, and, the free enjoyment of the most fundamental human rights, including sexual and reproductive rights and freedom from all forms of violence, abuse, neglect and exploitation. Although there has been progress in women's participation in decision-making globally, the participation of women with disability in all areas of public life in Australia remains inadequate.

Despite persistent and systemic exclusion from social and civic life, women and girls with disability have engaged, and continue to engage in new and innovative forms of social, cultural, political and economic participation, working for change across local, national and global domains.¹

It is largely through the actions of women with disability themselves – locally, nationally and globally - that this history and culture of exclusion is being challenged. Women with disability argue that one of the best ways to challenge oppressive practices, cultures and structures is to come together with other women with disability – to share experiences, to gain strength from one another and to work together on issues that affect them. Through organisations like WWDA – run *by* and *for* women and girls with disability - women with disability are afforded a mechanism to become actively and genuinely involved in organising for their rights – defining their issues, making decisions about factors that affect their lives, participating in the formulation and implementation of policies, programs and services and, taking individual and collective action to claim and advance their human rights and freedoms.

In this Position Statement on the Right to Participation, WWDA outlines key evidence concerning the exclusion of women and girls with disability from participation and decision-making processes. We highlight specific human rights obligations to ensure that the participatory rights of women and girls with disability are realised.

Six recommendations are made in regard to improving the fulfilment of women and girls with disabilities' right to participation on an equal basis with others.

3 THE EVIDENCE

The Barriers to Meaningful Participation

- ▶ Women and girls with disability throughout the world continue to be denied the right to participate in, and remain largely excluded from, decision-making, participation and advocacy processes, about issues that affect their lives and those of their families, communities and nations.
- ▶ Historically, a focus on individual incapacity or the ‘tragedy’ of disability frequently saw women with disability as dependent, as burdens and in need of care and protection,² resulting in their isolation, segregation and exclusion from participation in the wider community. This exclusion has silenced their voices and rendered invisible their contribution and experiences.³ The invisibility of women with disability in public decision-making has contributed to a lack of awareness of their rights as equal members of society and has reinforced negative stereotypes and discriminatory practices.⁴
- ▶ Direct, indirect and intersectional discrimination and prejudice on the basis of sex, disability, race, colour, ethnicity, sexuality, gender identity, social origin and access to economic resources, are recognised globally as impediments to meaningful participation for women and girls with disability.
- ▶ Widespread discrimination, systemic prejudice, paternalistic and ableist attitudes that denigrate, devalue, oppress and limit, continue to impact negatively on women and girls with disability in Australia and across the global context.⁵
- ▶ Women and girls with disability are frequently excluded from making or participating in decisions that affect their lives on a daily basis, including as active agents in their own health care, including sexual and reproductive health care.⁶ Too often, women and girls with disability have their views ignored or disregarded in favour of ‘experts’, ‘professionals’, parents, guardians, and carers, as well as representatives of organisations not controlled and constituted by women with disability themselves.⁷
- ▶ Young girls with disability – particularly adolescent girls - are rarely given opportunities to participate in participation and advocacy processes, about issues that affect their lives. The denial of their rights to participation and decision-making around their sexual and reproductive rights, including their right to freedom from all forms of violence, is recognised globally as a critical human rights issue warranting urgent attention at all levels.⁸
- ▶ Frequent and ongoing experiences of violence, abuse, harassment exploitation and systemic discrimination can contribute to women and girls with disability having lower self-esteem, confidence, limited awareness of their human rights, and, significant and real fears about acting on those rights or accessing the support to do so.⁹
- ▶ Women and girls with disability who live in institutional environments and other closed settings have limited opportunities for meaningful decision-making and participation. They are regularly deprived of the information, education and skills to realise their human rights, and are rarely, if ever, consulted on their views.¹⁰
- ▶ Wide-ranging systemic failures in legislation, policies and service systems in Australia facilitate conditions that deny the participatory rights of women and girls with disability. These failures are evident in laws and practices which foster and enable substitute decision-making and denial of legal capacity, as well as laws which facilitate egregious human rights violations such as forced sterilisation, forced abortion and forced living arrangements.¹¹

The Barriers to Meaningful Participation (Cont.)

- ▶ The denial of the right to participation opportunities for women and girls with disability is clearly evident in the area of sexual and reproductive rights. No group has ever been as severely restricted, or negatively treated, in respect of their sexual and reproductive rights, as women and girls with disability.¹² The realisation of sexual and reproductive rights for women and girls with disability is essential to the realisation of the full range of their human rights.
- ▶ Sexual and reproductive rights – including the right to freedom from all forms of violence - are indispensable to women with disabilities autonomy, agency, and right to meaningful participation and decision making about their lives and their health. However, women and girls with disability experience, and are at risk of multiple violations and restrictions of their sexual and reproductive rights in both law and practice, through practices such as forced and/or coerced sterilisation, forced contraception and/or limited or no contraceptive choices, a focus on menstrual and sexual suppression, poorly managed pregnancy and birth, forced or coerced abortion, termination of parental rights, denial of/ or forced marriage, and other forms of torture and violence, including gender-based violence. They also experience systemic exclusion from sexual and reproductive health care services, violence prevention services, and information and education.¹³
- ▶ The ability and the right to full and effective participation is dependent on access to accurate, accessible and appropriate information.¹⁴ Yet many women and girls with disability are denied the right to seek, receive and impart information about decisions affecting their lives. Information concerning issues relevant to women and girls with disability is rarely available in timely, comprehensive, and accessible ways. Governments and service providers rarely provide information in the full range of accessible formats, such as in sign language, Braille, large print, audio, Easy English, plain and/or non-technical language, captioned video, in languages other than English, or through the provision of accessible and usable web sites.

The Status of Women and Girls with Disability in Australia

- ▶ Over two-million women and girls with disability live in Australia (approximately 20% of the population of women), including approximately 100,000 girls with disability aged 0-14 and two- million women with disability aged 15 and older.¹⁵
- ▶ The right to live free from all forms of violence and abuse is consistently identified by women and girls with disability in Australia as the most urgent and unaddressed human rights issue they face.¹⁶ Compared to their peers, women with disability experience significantly higher levels of all forms of violence more intensely and frequently and are subjected to such violence by a greater number of perpetrators.¹⁷ Their experiences of violence last over a longer period of time, they experience more severe injuries as a result of the violence¹⁸ and they have considerably fewer pathways to safety.¹⁹
- ▶ Women and girls with disability are more likely than men and boys with disability (and other women and men) to face medical interventions to control their fertility, and experience significantly more restrictions, negative treatment,²⁰ and particularly egregious violations of their sexual and reproductive rights. They experience, and are more exposed to practices which qualify as torture or inhuman or degrading treatment, including state sanctioned practices such as forced sterilisation, forced abortion, and forced contraception.²¹
- ▶ Compared to others in the population, they are more likely to be isolated and segregated within the range of settings in which they reside, are incarcerated, or receive support services;²² are subjected to multiple forms and varying degrees of ‘deprivation of liberty’ and are more likely to be subjected to unregulated or under-regulated restrictive interventions and practices,²³ often imposed as a means of coercion, discipline, convenience, or retaliation by others.²⁴ Indigenous women with disability are at risk of being detained indefinitely, often without conviction, in prisons and in forensic psychiatric units throughout Australia enduring periods of indefinite detention that in some cases exceed years.²⁵

The Status of Women and Girls with Disability in Australia (Cont.)

- ▶ Women with disability in Australia have less power and fewer resources than other women and men. They are much more likely to live in poverty than people in the general population; have to work harder to secure their livelihoods; have less control over income and assets, and have little economic security.²⁶ They are much more likely to be unemployed than other women and men with disability; less likely to be in the paid workforce;²⁷ have lower incomes from employment; are more likely to experience gender and disability biases in labour markets; and are more concentrated than other women and men in precarious, informal, subsistence and vulnerable employment.²⁸
- ▶ Compared to men with disability and other women, disabled women experience substantial housing vulnerability, are more likely to experience and face homelessness, and are much more likely to be affected by the lack of affordable housing.²⁹ They are more likely to be sole parents, to be living on their own, or in their parental family than disabled men,³⁰ are at higher risk of separation/divorce than men with disability and often experience difficulty maintaining custody of their children post-separation/divorce.³¹ Mothers with disability are up to ten times more likely than other parents to have a child removed from their care by authorities on the basis of the mother's disability, rather than any evidence of child neglect.³²
- ▶ Like many women, disabled women share the burden of responsibility for unpaid work in the private and social spheres, including for example, cooking, cleaning, and caring for children and relatives. Women with disability are much less likely to receive service support than other women and men with disability, across all service types and sectors.³³



**SYSTEMIC FAILURES IN LEGISLATION, POLICIES
AND SERVICE SYSTEMS IN AUSTRALIA HAVE
FACILITATED CONDITIONS THAT CONTINUE TO
DENY THE PARTICIPATORY RIGHTS OF WOMEN AND
GIRLS WITH DISABILITY**

4 INTERNATIONAL HUMAN RIGHTS OBLIGATIONS: PARTICIPATION

Australia is a signatory to seven core international human rights treaties, all of which create obligations to promote equality, denounce discrimination against people with disability; people from culturally and linguistically diverse backgrounds; people from Aboriginal and Torres Strait Islander backgrounds; and against women. As a party to these treaties, Australia has chosen to be bound by the treaty requirements, and has an international legal obligation to implement the treaty provisions through its laws and policies. Together, the seven international human rights treaties to which Australia is a party – along with their Optional Protocols,³⁴ General Comments³⁵ and recommendations adopted by the bodies monitoring their implementation - provide the framework to delineate the obligations and responsibilities of governments and other duty-bearers to comprehensively promote the human rights of women and girls with disability, including their right to participation at all levels. *Convention on the Elimination of All Forms of Racial Discrimination* 1965 ([1975] ATS 40);

1. *International Covenant on Economic, Social and Cultural Rights* 1966 ([1976] ATS 5);
2. *International Covenant on Civil and Political Rights* 1966 ([1980] ATS 23);
3. *Convention on the Elimination of All Forms of Discrimination Against Women* 1979 ([1983] ATS 9);
4. *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* 1984 ([1989] ATS 21);
5. *Convention on the Rights of the Child* 1989 ([1991] ATS 4);
6. *Convention on the Rights of Persons with Disabilities* 2006 [2008, ATS 12].

In addition to these seven international human rights treaties, in 2009, Australia also formally endorsed the *United Nations Declaration on the Rights of Indigenous Peoples* - an international human rights instrument that sets a standard for the protection of Indigenous rights.

Political and public participation rights play a crucial role in the promotion of democratic governance, the rule of law, social inclusion and economic development, as well as in the advancement of all human rights. International human rights instruments and mechanisms acknowledge the right of all people to be fully involved in and to effectively influence public decision-making processes that affect them. The right to directly and indirectly participate in political and public life is important in empowering individuals and groups, and is one of the core elements of human rights-based approaches aimed at eliminating marginalisation and discrimination. Participation rights are inextricably linked to other human rights such as the rights to peaceful assembly and association, freedom of expression and opinion and the rights to education and to information.³⁶

Included below in this section is a non-exhaustive list of excerpts from key articles from the relevant human rights instruments to which Australia is a party and which concern participatory rights.

Convention on the Rights of Persons with Disabilities (CRPD)

The *Convention on the Rights of Persons with Disabilities (CRPD)*³⁷ was ratified by Australia on 17 July 2008. Its fundamental purpose is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disability, and to promote respect for their inherent dignity. Effective and meaningful participation is at the core of the CRPD.³⁸ The Convention addresses participation as a crosscutting issue, meaning that 'participation' is embedded within all articles. The CRPD makes it clear that people with disability are the key interlocutors in its implementation and monitoring and full and effective participation must be afforded to all persons with disability on all matters affecting them.³⁹

The CRPD recognises gender as one of the most important categories of social organisation and at Article 6 [Women with Disabilities] recognises the pervasive marginalisation and discrimination experienced by women and girls with disability. Obligations under CRPD Article 6 are of immediate nature.⁴⁰ The legal nature of Article 6 is crosscutting which means that every article of the CRPD has to be understood, viewed, implemented and evaluated from the perspective of advancing the human rights of all women and girls with disability – regardless of where they live, work or play. Because Article 6 is a “cross-cutting” article it means that when governments are developing or implementing laws, policies, programs, or services for women, for people with disability, or for the whole community, they must ALWAYS take extra actions to make sure women and girls with disability are included and can fully enjoy their rights. They must also ALWAYS consult with women and girls with disability and their organisations about the best ways to implement every article of the CRPD. ⁴¹

Preamble

[...] Concerned that, despite [these] various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,

[...] Recognizing the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,

Considering that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,

Article 3 - General principles

The principles of the present Convention shall be:

- a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;

Article 4 - General Obligations

In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

Article 6 - Women with disabilities

States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Article 7 - Children with disabilities

States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Article 12 - Equal recognition before the law

States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

Article 19 - Living independently and being included in the community

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others [...]

Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

Article 21 - Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice [...],

Article 23 – Respect for home and family

States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that: [...],

- ▶ The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;
- ▶ The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

Article 29 - Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- ▶ Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
 - ▶ Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - ▶ Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
 - ▶ Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
 - ▶ Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - ▶ Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
 - ▶ Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

By ratifying the *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*⁴² in 1983, Australia became obliged to protect all women and girls from discrimination and ensure the achievement of equality between men and women. The importance of women's participation in decision-making at all levels underpins the Convention. CEDAW further requires States Parties to take additional, special measures for women subjected to multiple forms of discrimination, including women and girls with disability.⁴³

Preamble

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- ▶ To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- ▶ To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- ▶ To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 15

States Parties shall accord to women equality with men before the law.

States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

International Covenant on Civil and Political Rights (ICCPR)

The *International Covenant on Civil and Political Rights* (ICCPR)⁴⁴ ratified by Australia in 1980, commits its parties to respect the civil and political rights of individuals, including for example, the rights to self-determination; to liberty and security of person; to family; to privacy; and to freedom from torture and cruel, inhuman or degrading treatment. Article 3 implies that all human beings should enjoy the rights provided for in the Covenant, on an equal basis and in their totality.

Article 1

All peoples have the right of self-determination [...]

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 19

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds [...].

Article 25

Every citizen shall have the right and the opportunity [...]

- ▶ To take part in the conduct of public affairs, directly or through freely chosen representatives;
- ▶ To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- ▶ To have access, on general terms of equality, to public service in his country.

International Covenant on Economic, Social and Cultural Rights (ICESCR)

The International Covenant on Economic, Social and Cultural Rights (ICESCR),⁴⁵ ratified by Australia in 1975, provides the legal framework to protect and preserve the most basic economic, social and cultural rights, including rights relating to work in just and favourable conditions, to social protection, to an adequate standard of living, to the highest attainable standards of physical and mental health, to education and to enjoyment of the benefits of cultural freedom and scientific progress.⁴⁶ The ICESCR also calls for special protection for mothers and children,⁴⁷ including the right to protection and support in relation to motherhood, pregnancy, sexuality, and bodily integrity.⁴⁸ In the context of the ICESCR, 'culture' is a broad, inclusive concept encompassing all manifestations of human existence,⁴⁹ and participatory rights are recognised as fundamental to the realisation of economic, social and cultural rights.⁵⁰

Article 1

All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

International Covenant on Economic, Social and Cultural Rights (ICESCR) (Cont.)

Article 11

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions [...]

Article 13

The States Parties to the present Covenant recognize the right of everyone to education. [...]. They further agree that education shall enable all persons to participate effectively in a free society [...]

Article 15

The States Parties to the present Covenant recognize the right of everyone:

- ▶ To take part in cultural life; [...]

Convention on the Rights of the Child (CRC)

The Convention on the Rights of the Child (CRC)⁵¹ was ratified by Australia in 1990.⁵² It sets out the specific ways that human rights apply to all children and young people up to the age of 18 years. The right of all children to be heard and taken seriously constitutes one of the fundamental values of the CRC. It is the right of every child, without exception.⁵³ The concept of participation in the CRC emphasises that including children is not a momentary or one-off act, but an ongoing process between children and adults on the development of all policies, programs and measures in all relevant contexts of children's lives.⁵⁴

Gender is a key factor in implementation of the Convention, which recognises that policies, programs and other measures should be grounded in a broad approach to gender equality that ensures young women's full political participation; social and economic empowerment; recognition of equal rights related to sexual and reproductive health; and equal access to information, education, justice and security, including the elimination of all forms of sexual and gender-based violence. The CRC specifically recognises that girls with disability are often more vulnerable to discrimination due to gender discrimination, and requires that States parties pay particular attention to girls with disability by taking the necessary measures, (and when needed extra measures), in order to ensure that they are well protected, have access to all services and are fully included in society.⁵⁵

Article 12

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Article 13

The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information [...]

Article 17

States Parties [...] shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

Convention on the Rights of the Child (CRC) (Cont.)

Article 23

States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

Article 31

States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)⁵⁶ was ratified by Australia in 1975.⁵⁷ ICERD affirms the equality of all persons' civil, political, economic and social rights without any distinction regarding race, colour, descent, or national or ethnic origin. Implementation of, and compliance with ICERD requires States Parties to give particular attention to complex forms of disadvantage in which racial discrimination is mixed with other causes of discrimination (such as those based on age, sex and gender, religion, disability and low socio-economic status).⁵⁸

Article 5

[...] States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction [...], to equality before the law, notably in the enjoyment of the following rights:

- ▶ The right to equal treatment before the tribunals and all other organs administering justice;
- ▶ The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- ▶ Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- ▶ Other civil rights [...]

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Australia ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)⁵⁹ in 1989. CAT strictly prohibits torture of any kind, with torture defined as any act, physical or mental, whether at the instigation, consent or acquiescence of a public official, where severe pain or suffering was intentionally inflicted for a range of purposes including discrimination. Such acts are also prohibited if they meet the slightly lower standard of "cruel, inhuman or degrading" treatment or punishment.⁶⁰ The mandate has stated, that torture, as the most serious violation of the human right to personal integrity and dignity, presupposes a situation of powerlessness, whereby the victim is under the total control of another person. Deprivation of legal capacity, when a person's exercise of decision-making is taken away and given to others, is one such

circumstance. The mandate has recognised that medical treatments of an intrusive and irreversible nature, when lacking a therapeutic purpose, may constitute torture or ill-treatment when enforced or administered without the prior, free and informed consent of the person concerned.⁶¹ The importance of victim/survivor participatory rights in relation to redress is a key principle underpinning Article 14.⁶²

Article 1

For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Article 14

Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible [...]

Declaration on the Rights of Indigenous Peoples (DRIP)

The United Nations Declaration on the Rights of Indigenous Peoples (DRIP)⁶³ was adopted by Australia on 3rd of April 2009. The Declaration is an international human rights instrument that sets a standard for the protection of Indigenous rights. In adopting the Declaration, the Australian Government signaled its agreement to implement the provisions of the instrument in order to protect the individual and collective rights of Indigenous peoples. UNDRIP addresses the most significant issues affecting indigenous peoples - their civil, political, social, economic and cultural rights. It also bears on their right to self-determination, spirituality, language, lands, territories, resources and free, prior and informed consent.

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 22

Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.



**FULL AND EFFECTIVE PARTICIPATION IS
DEPENDENT ON ACCESS TO ACCURATE,
ACCESSIBLE AND APPROPRIATE INFORMATION**

5 INTERNATIONAL HUMAN RIGHTS COMPLIANCE: PARTICIPATION

International human rights treaties have mechanisms to ensure that States parties protect human rights not only in words but also in practice.⁶⁴ For more than a decade, the United Nations treaty monitoring bodies have made strong recommendations to Australia in relation to improving the human rights of women and girls with disability, including a number that the UN and civil society organisations have considered urgent.

This section of the paper highlights a non-exhaustive sample of some of the key recommendations the United Nations treaty monitoring bodies and mandates have made to Australia in relation to improving participatory rights of women and girls with disability.

Committee on the Rights of Persons with Disabilities

In October 2013, the *Committee on the Rights of Persons with Disabilities* released its Concluding Observations [Australia] following its September 2013 review of Australia's compliance with the Convention on the Rights of Persons with Disabilities (CRPD). The Committee made a number of specific and urgent recommendations to the Australian Government in relation to participatory rights of women and girls with disability.

The Committee recommended that Australia take immediate steps to replace substitute decision-making with supported decision-making and provide a wide range of measures which respect the person's autonomy, will and preferences in full conformity with article 12 of the Convention. The Committee recommended Australia "repeal all legislation that authorises medical intervention without the free and informed consent of the persons with disabilities concerned, committal of individuals to detention in mental health facilities, or imposition of compulsory treatment, either in institutions or in the community [...]".

The Committee urged the Australian Government to adopt national uniform legislation prohibiting the use of sterilisation of boys and girls with disabilities, and of adults with disability in the absence of their prior, fully informed and free consent. It expressed its "deep concern" at the "failure" of Australia to implement previous treaty body and mandate recommendations regarding sterilisation of children and adults with disabilities.⁶⁵

The Committee recommended that the Australian Government take immediate action to make sure that people with disability are given a free choice of where they want to live and with whom. The need to establish policies and programs to ensure the right of children with disability to express their views on all matters concerning them was a key recommendation from the Committee.

The Committee has consistently expressed concern at the lack of attention paid to implementation of Article 6 [Women with disabilities] by States Parties to the CRPD.⁶⁶ In providing interpretation of Article 6, the Committee has clarified that implementation of the provisions of the Article, requires that States parties go beyond refraining from discriminatory actions, to adopting measures aimed at the development, advancement and empowerment of women and girls with disability. In so doing, States Parties are obligated to recognise women and girls with disability as distinct right holders, provide channels for their voice and agency, and, employ targeted measures to enable and build their capacity to 'increase their power and authority to take decisions in all areas affecting their lives.'⁶⁷

The CRPD Committee has identified three critical areas of concern with respect to the protection of the human rights of women and girls with disability: all forms of violence; sexual and reproductive health and rights; and discrimination. The lack of decision-making and participatory rights in the context of these three critical areas serves to compound the human rights violations women and girls with disability experience.

The CRPD Committee, in its General Recommendation on Women with Disabilities,⁶⁸ has urged States Parties to take all necessary measures to address the lack of decision-making and participatory rights of women and girls with disability through: with disability through:

- ▶ Addressing all barriers that prevent or restrict the participation of women with disabilities and ensuring that women with disabilities as well as the views and opinions of girls with disabilities, through their representative organizations, are included in the design, implementation and monitoring of all programmes which have an impact on their lives; including women with disabilities in all branches and bodies of the national monitoring system.
- ▶ Repealing any law or policy that restricts women with disabilities from their effective and full participation in political and public life on an equal basis with others [...]
- ▶ [...] adoption of effective measures to provide women with disabilities access to the support they may require to exercise their legal capacity, in line with General comment on article 12, to give their free and informed consent and to take decisions about their own lives.
- ▶ Support and promotion of the creation of organizations and networks of women with disabilities and the promotion and support for women with disabilities to take leadership roles in public decision-making bodies at all levels.

Committee on the Elimination of All Forms of Discrimination against Women (CEDAW)

At its 34th session⁶⁹ in 2006 and its 46th session⁷⁰ in 2010, the *Committee on the Elimination of Discrimination against Women* (CEDAW) made very strong recommendations regarding the need for urgent action by Australian governments in relation to women and girls with disability, including in relation to decision-making and participatory rights. The Committee expressed its concern at the lack of progress by the Australian Government in ensuring the equal participation of women with disability in leadership and decision-making positions, in public and political life as well as their equal access to education, employment and health. In 2010, the Committee again expressed concern that the Australian Government “does not favour adoption of temporary special measures in the form of compulsory targets and quotas” to address the under-representation of women with disability in decision-making bodies, in political and public life and the persistent inequality of their access to education, employment opportunities and health care services.” The CEDAW Committee reiterated its recommendation from 2005 that the Australian Government consider the adoption of temporary special measures to address this.

The Committee further recommended that the Australian Government enact national legislation prohibiting, except where there is a serious threat to life or health, the use of sterilisation of girls, regardless of whether they have a disability, and of adult women with disabilities in the absence of their fully informed and free consent. The CEDAW Committee also noted with concern, the persistent inequality of women with disabilities’ access to education, employment opportunities and health care services, as well as the pervasive and high incidence of violence, which they recommended the Australian Government address as a matter of urgency.

The CEDAW Committee has consistently identified a number of barriers to the equal participation of women in political and public life, including traditional cultural values and religious beliefs, absence of social services, violence against women, women’s economic dependence on men, negative societal attitudes towards women, harmful gender stereotyping, denial of sexual and reproductive rights, amongst others.⁷¹ The Committee has clarified that obligations under the Convention require States Parties to take all appropriate measures to ensure to women, on equal terms with men, the right:

- ▶ To vote in all elections and public referendums and to be eligible for election to all publicly elected bodies;
- ▶ To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- ▶ Participate in non-governmental organizations and associations concerned with the public and political life of the country.

Committee on Economic, Social and Cultural Rights

At its 42nd session⁷² in 2009, the *Committee on Economic, Social and Cultural Rights* reviewed Australia's compliance under the CESCR. The Committee expressed its regret that "insufficient measures have been taken by the State party to ensure an adequate standard of living for persons with disabilities," and recommended the Australian Government strengthen its efforts towards the adoption of concrete measures to enable persons with disabilities to fully enjoy the rights guaranteed by the Covenant. The Committee further recommended that the Australian Government provide human rights education and training on economic, social and cultural rights to students at all levels of education and all professions and sectors having a direct role in the promotion and protection of human rights.

The Committee on Economic, Social and Cultural Rights has given authoritative guidance to States Parties in relation to participatory rights in the implementation of the CESCR. The CESCR Committee has clarified that, in relation to 'cultural rights', there are three interrelated main components of the right to participate or take part in cultural life: (a) participation in, (b) access to, and (c) contribution to cultural life.

- ▶ **Participation** covers in particular the right of everyone — alone, or in association with others or as a community — to act freely, to choose his or her own identity, to identify or not with one or several communities or to change that choice, to take part in the political life of society, to engage in one's own cultural practices and to express oneself in the language of one's choice. Everyone also has the right to seek and develop cultural knowledge and expressions and to share them with others, as well as to act creatively and take part in creative activity;
- ▶ **Access** covers in particular the right of everyone — alone, in association with others or as a community — to know and understand his or her own culture and that of others through education and information, and to receive quality education and training with due regard for cultural identity. Everyone has also the right to learn about forms of expression and dissemination through any technical medium of information or communication, to follow a way of life associated with the use of cultural goods and resources such as land, water, biodiversity, language or specific institutions, and to benefit from the cultural heritage and the creation of other individuals and communities; and,
- ▶ **Contribution to cultural life** refers to the right of everyone to be involved in creating the spiritual, material, intellectual and emotional expressions of the community. This is supported by the right to take part in the development of the community to which a person belongs, and in the definition, elaboration and implementation of policies and decisions that have an impact on the exercise of a person's cultural rights.

The CESCR Committee has made it clear that the obligation of States parties to the Covenant clearly requires Governments to do much more than merely abstain from taking measures which might have a negative impact on people with disability. The obligation in the case of people with disability is to take positive action to reduce structural disadvantages and to give preferential treatment to people with disability in order to achieve the objectives of their full participation and equality. The Committee expressly state that additional resources must be made available for this purpose and that a wide range of tailored, gendered and targeted measures are required.⁷³

Committee on the Rights of the Child

The *Committee on the Rights of the Child* reviewed Australia's compliance under the CRC⁷⁴ in 2005 and again in 2012.⁷⁵ On both occasions, the Committee expressed significant concern at the lack of fora and opportunities for children to express their views in matters affecting them. The Committee specifically noted the lack of participation and decision-making opportunities for children under the age of 15, Aboriginal and Torres Strait Islander children, and 'vulnerable' children. The Committee made strong recommendations in this area, including that the Australian Government "promote the meaningful and empowered participation of all children, at all levels of government and within the family, community, and schools, including within student council bodies – with particular attention to children in vulnerable situations."

In the 2012 review, the Committee noted, once again, its grave concern at the ongoing practice in Australia of sterilisation of women and girls with disabilities, re-iterating that it is a form of violence and in breach of multiple Articles of the CRC. The Committee expressed its 'serious concern' that the absence of legislation prohibiting such sterilization is discriminatory and in contravention of article 23(c) of the Convention on the Rights of Persons with Disabilities. The Committee re-iterated its long-standing recommendation to the Australian Government to enact non-discriminatory legislation that prohibits non-therapeutic sterilisation of all children, regardless of disability.

The CRC Committee has clarified that having a disability and/or impairment, does not deprive a child from the right to express his or her views, nor does it reduce the weight given to the child's views in determining his or her will and preferences. States Parties are required to adopt all necessary measures – including the provision of adjustments and supports - to guarantee the exercise of equal participation and decision-making rights for children with disability in all matters affecting them.⁷⁶

Human Rights Committee

Australia's compliance with the International Covenant on Civil and Political Rights (ICCPR) was reviewed during the 95th session⁷⁷ of the Human Rights Committee in 2009. The Committee expressed its regret that the Australian Government had not provided sufficient and adequate information for the Review. However, despite the absence of adequate information, the Committee noted its ongoing concern that indigenous peoples are not sufficiently consulted in participation and decision-making processes with respect to issues affecting their rights, and recommended that the Australian Government increase its efforts in this area.

Over the years, the Human Rights Committee has provided substantial guidance to States Parties regarding participatory rights under ICCPR. It has clarified that in relation to civil and political rights, participation encompasses the rights of the individual to vote and to be elected; to take part in the conduct of public affairs; and to have access to public service. States are obliged to adopt positive measures to ensure the full, effective and equal enjoyment of participatory rights, including through inclusive, meaningful and non-discriminatory processes and mechanisms. States also should guarantee full and effective access to justice and redress mechanisms to people who have been unduly deprived of their right to participate in political and public affairs.⁷⁸

Committee Against Torture

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.⁷⁹ One of its principal areas of concern related to violence against women, particularly violence against women with disability, and indigenous women. The Committee made a series of strong recommendations in this area, including the need to "take measures to facilitate the lodging of complaints by victims and to address effectively the barriers that may prevent women from reporting acts of violence against them."

The over-representation of indigenous people in prisons, particularly women, was a further area of concern with the Committee recommending that the Australian Government "increase its efforts to address the overrepresentation of indigenous people in prisons, in particular its underlying causes." The Committee made a number strong recommendations in relation to immigration detention and asylum seekers, noting that the mandatory detention "creates serious physical and mental pain and suffering".

The Committee Against Torture addressed the issue of sterilisation of children and adults with disabilities, and made a clear recommendation that the Australian Government "enact uniform national legislation prohibiting, except where there is a serious threat to life or health, the use of sterilization without the prior, free and informed consent of the person concerned, and that it ensure that, once adopted, this legislation is effectively applied."

The Committee Against Torture has articulated in guidance to States, that victim/survivor participatory rights in relation to redress is a key principle underpinning Article 14 of the Convention.

Human Rights Council

Despite its key importance as a human right in itself and as an enabler of the enjoyment of other human rights, the right to participate in political and public affairs continues to face obstacles to its full realisation. International human rights mechanisms have consistently observed that regardless of country or context, women, indigenous peoples, people with disability, human rights defenders, non-citizens and other marginalised or excluded individuals and groups are frequently unable to fully participate in political and public affairs on an equal basis.⁸⁰

The Human Rights Council, in seeking to address this systemic issue in a comprehensive way, has recently provided detailed guidance and recommendations to States regarding the promotion, protection and implementation of participatory rights.⁸¹ This guidance report was released following a global study undertaken by the Office for the High Commissioner on Human Rights (OHCHR), at the request of the Human Rights Council.⁸²

Through the OHCHR guidance Report, the Human Rights Council clarifies that participation requires 'a long-term and genuine commitment to engage in processes of intensive dialogue regarding the development of policies, programmes and measures in all relevant contexts'. It determines that intersecting and compound forms of discrimination have an especially devastating effect on the right to participate in political and public affairs, and that lack of decision-making power is a universal and basic characteristic of marginalised and excluded groups.

The Human Rights Council has further determined that participation mechanisms are most effective when they are premised on empowerment and aimed at building the capacity, social capital, confidence, rights awareness and knowledge of individuals. This specifically includes the requirement for States to devote resources to long-term, sustainable participatory mechanisms.⁸³

UN Special Rapporteur on Disabilities

In 2016 the UN Special Rapporteur on Disabilities submitted to the Human Rights Council her report from the thematic study on the right of persons with disabilities to participate in decision-making.⁸⁴ The report provides authoritative guidance and recommendations to States in relation to decision-making and participatory rights of people with disability, making it clear that the CRPD mandates participation of people with disability in all matters affecting them.

The Special Rapporteur's report provides definitive guidance to States on the obligation of ensuring the participation of representative organisations of people with disability in realising decision-making and participatory rights of all persons with disability, including those who require supports to express their views. The Special Rapporteur defines and clarifies the fundamental difference between representative organisations of people with disability, and representative organisations for people with disability.

The report clarifies that representative organisations of people with disability are led, controlled by, and constituted of people with disability.⁸⁵ These organisations, known as Disabled People's Organisations (DPO's) in the international civil society and human rights spaces, are non-government, membership-based organisations created with the aim of collectively acting, expressing, promoting, pursuing and/or defending the rights of people with disability, as defined and identified by people with disability themselves.

The Special Rapporteur on Disabilities has clarified that to pursue genuine and meaningful participation by people with disability in decision-making processes, States must ensure that the will and preferences of people with disability themselves are given priority, and that States must create an enabling environment for the establishment and functioning of representative organisations of people with disability as part of their obligations under the CRPD.



**THE WIDESPREAD DENIAL OF THE RIGHT TO
SOCIAL, CULTURAL, ECONOMIC AND POLITICAL
PARTICIPATION IS CONTINUING UNABATED DUE TO
DEEP-ROOTED INEQUALITY AND EXTREME FORMS
OF DISCRIMINATION AGAINST WOMEN AND GIRLS
WITH DISABILITY**

6 RECOMMENDATIONS: THE RIGHT TO PARTICIPATION

Mandated through Australia's international human rights obligations, and based on the evidence, voices, experiences, and expertise of women and girls with disability, WWDA offers the following key recommendations as critical to promoting the right to participation for all women and girls with disability.

1. WWDA calls on the Australian Government to provide long-term support, including core support and resources for capacity building, to human rights based organisations constituted by, of and for women and girls with disability.
2. WWDA calls on the Australian Government to ensure decision-making, participation and capacity building of women and girls with disability are integral to all policy and programmatic efforts to end violence against women.
3. WWDA calls on the Australian Government to commission and fund a comprehensive assessment of the situation of women and girls with disability, in order to establish a baseline of disaggregated data and information against which compliance with the UN treaties (to which Australia is a party) and national policy frameworks can be measured and monitored.
4. WWDA calls on the Australian Government to establish and recurrently fund through the Council of Australian Governments (COAG) a National 'Women with Disability Leadership Grants Program' to provide capacity building opportunities that recognise women with disability as active agents with rights and responsibilities, and which actively promote and enable their agency, dignity, autonomy and empowerment.
5. WWDA calls on the Australian Government to ensure that all government departments and agencies at all levels, provide accurate and accessible information concerning issues relevant to women and girls with disability which can support women and girls with disability to meaningfully participate in matters affecting their lives.
6. WWDA calls on the Australian Government to immediately withdraw its Interpretative Declarations on CRPD Article 12 [Equal recognition before the law] Article 17 [Protecting the integrity of the person] and Article 18 [Liberty of movement and nationality].

7 SPEAKING OUT AND ACCESSING SUPPORT

If you, a child or another person is in immediate danger CALL 000.

If you are deaf, have a hearing or speech impairment, there are a number of ways to contact emergency services:

- ▶ **TTY** - dial 106
- ▶ **Internet relay** – and ask for Triple Zero (000)
- ▶ **Captioned relay** – and ask for Triple Zero (000)
- ▶ **SMS relay** – text 0423 677 767
- ▶ **Video relay** – login to Skype and contact one of the National Relay Service (NRS) contact names
- ▶ **Ordinary phone** - dial 1800 555 727 and ask for Triple Zero (000)

Call 1800RESPECT on 1800 737 732. This is the National Sexual Assault, Domestic Family Violence Counseling Service. These services are available for all women and are free.

Visit 1800RESPECT online at <http://www.1800respect.org.au>

Visit or contact a disability advocacy service in your area. <http://finder.dss.gov.au/disability/ndap/>

Speak with someone you trust or call an advocacy, violence or crisis service in your area.

8 ENDNOTES

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- 8 United Nations Population Fund (UNFPA), *Global study on youth and disability: Ensuring social inclusion and gender equality to address discrimination and gender-based violence*, Terms of Reference document for the Global Technical Advisory Group (TAG). See also: <http://www.unfpa.org/gender-based-violence>
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- 34 Human rights treaties are often followed by “Optional Protocols” which may either provide for procedures with regard to the treaty or address a substantive area related to the treaty. Optional Protocols to human rights treaties are treaties in their own right, and are open to signature, accession or ratification by countries who are party to the main treaty. Optional protocols include an inquiry procedure, as well as a complaints procedure. An inquiry procedure enables the treaty body to conduct inquiries into serious and systematic abuses of human rights in countries that become States parties to the Optional Protocol. This allows widespread violations to be investigated where individuals or groups may be unable to make communications (for practical reasons or because of fear of reprisals), and is important where individual communications fail to reflect the systemic nature of widespread violations of human rights.
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- 48 UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 21: Right of everyone to take part in cultural life. UN Doc. No. E/C.12/GC/21, 21 December 2009.
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- 51 The CRC generally defines a child as any human being under the age of eighteen years, and requires States parties to ensure that all children within their jurisdiction enjoy all the rights enshrined in the Convention without discrimination of any kind.
- 52 The Committee on the Rights of the Child has identified the right to be heard (article 12) as one of the four general principles of the Convention. See: Committee on the Rights of the Child (2014) Working methods for the participation of children in the reporting process of the Committee on the Rights of the Child, UN Doc. No. CRC/C/66/2.
- 53 UN Committee on the Rights of the Child (CRC), General comment No. 12 (2009): The right of the child to be heard. UN Doc. No. CRC/C/GC/12.
- 54 See: UN Committee on the Rights of the Child (CRC), General comment No. 13 (2011): Article 19: The right of the child to freedom from all forms of violence, 17 February 2011, CRC/C/GC/13; UN Committee on the Rights of the Child (2013) General comment No. 15: The right of the child to the enjoyment of the highest attainable standard of health (Article. 24); UN Doc. CRC/C/GC/15; 14 March 2013.
- 55 International Convention on the Elimination of All Forms of Racial Discrimination, at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>
- 56 Note: From 2007 until December 2010, the Northern Territory Intervention (NTI) legislation suspended the operation of Australia's legal protection from racial discrimination, the Racial Discrimination Act 1975 (Cth) (RDA), to acts done under, or for the purposes of, the NTI. See: <http://www.hrlrc.org.au/files/Fact-Sheet-2-NT-Intervention.pdf>
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- 63 The international human rights treaties monitoring bodies are responsible for monitoring States parties' compliance with their legal obligations under the treaties. A key mechanism to monitor and analyse compliance is through periodic reviews of States parties under the treaties they have ratified. The Treaty Bodies issue Concluding Observations and Recommendations which provide authoritative interpretation of States parties' treaty obligations, summarise their assessment of progress and deficits in the implementation of the treaties and give recommendations for an improved realisation. For more information on the international human rights treaty monitoring bodies, go to: <http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>

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- 68 Committee on the Elimination of Discrimination against Women, Concluding comments of the Committee on the Elimination of Discrimination against Women: Australia, 3 February 2006, CEDAW/C/AUL/CO/5.
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