

**AUSTRALIAN ABORIGINAL AND TORRES STRAIT ISLANDER WOMEN'S
NGO ISSUE SHEETS – CEDAW 2010**

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ARTICLES 1-3: DEFINITION OF DISCRIMINATION AGAINST WOMEN, OBLIGATIONS TO ELIMINATE DISCRIMINATION AGAINST WOMEN AND ADVANCEMENT OF WOMEN: ABORIGINAL & TORRES STRAIT ISLANDER WOMEN

POSITIVE DEVELOPMENTS

- The Australian Parliament passed a *Motion of Apology to Australia's Indigenous Peoples* for 'the laws and policies of successive governments that have inflicted profound grief, suffering and loss' on Aboriginal and Torres Strait Islander people, and in particular for the removal of Aboriginal and Torres Strait Islander children from their families, communities and country.
- Australian governments agreed to a partnership between all levels of government to work with Indigenous communities to 'close the gap' on Indigenous disadvantage.

RECOMMENDATIONS PROPOSED FOR CONCLUDING OBSERVATIONS

- ⇒ THAT the Australian Parliament be commended on its *Motion of Apology to Australia's Indigenous Peoples*.
- ⇒ THAT Australian governments be commended for their commitments to 'close the gap' on Indigenous disadvantage and be encouraged to ensure that all measures are taken to consider the particular needs of Aboriginal and Torres Strait Islander women.
- ⇒ THAT the Australian Government ensure that data is disaggregated by sex, ethnicity, ability, age and geographical location against specific policy areas of education, health and employment.

CHALLENGES

'Northern Territory Emergency Response' intervention into Aboriginal communities

The Northern Territory Emergency Response (NTER) is still in place after three years and remains a major issue of concern despite recent reforms.

Background: In 2007, the Australian Government's introduced a range of extraordinary measures into Aboriginal communities in the Northern Territory, including deploying military and police in traditional lands, quarantining social security payments, banning alcohol and the compulsorily acquiring Aboriginal land. Aboriginal women hold mixed views about the measures, with some reporting they feel safer as a result of the increased police presences, alcohol bans and income management, and other women expressing distress and deep concern about the measures and about the way they were implemented. The Special Rapporteur on Indigenous Rights has also expressed serious concern about the measures and the lack of consultation.

Significant human rights concerns: The measures raise significant concerns about Australia's international obligations to respect and promote the human rights of Aboriginal women, including:

- the failure of the Australian Government to refer to children's rights and human rights principles in framing its response;
- the lack of consultation and engagement with Aboriginal communities about the measures;
- the suspension of the *Racial Discrimination Act* and *Northern Territory Anti-Discrimination Act*;
- compulsory acquisition and taking control of Aboriginal land and community living areas;
- the compulsory income management regime, which includes measures to quarantine welfare payments for specific purposes, which is now being rolled out across Australia.

Recent reforms: While Some NTER measures have been redesigned and the application of the *Racial Discrimination Act* will be reinstated from 31 December 2010, many Aboriginal women are still concerned that the ongoing measures remain racially discriminatory, and that consultation on 2010 reforms to this point has been inadequate. These consultations also did not meet benchmarks established in the *Declaration on the Rights of Indigenous Peoples*. The rollout of compulsory income management to other disadvantaged communities across Australia will also have a disproportionate effect on Aboriginal communities.

QUESTIONS FOR THE AUSTRALIAN GOVERNMENT

⇒ What steps will the Government take to ensure that the Northern Territory Intervention is not racially discriminatory and in breach of its international human rights obligations?

RECOMMENDATIONS PROPOSED FOR CONCLUDING OBSERVATIONS

⇒ THAT the Australian Government should repeal the remaining aspects of the Northern Territory Intervention legislation that are racially discriminatory and otherwise incompatible with domestic and international human rights standards.

⇒ THAT all Australian governments establish policies of consultation with Aboriginal and Torres Strait Islander communities that meet the benchmarks established in the *Declaration on the Rights of Indigenous Peoples*, which require genuine respect for cultural integrity and self determination, and provide ongoing and resourced mechanisms to ensure direct dialogue with Aboriginal and Torres Strait Islander women.

ARTICLES 7 & 8: PUBLIC AND INTERNATIONAL PARTICIPATION FOR ABORIGINAL & TORRES STRAIT ISLANDER WOMEN

POSITIVE DEVELOPMENTS

- The new national Indigenous representative body, the National Congress of Australia's First Peoples, was established in May 2010 with equal representation of women and men on its National Executive.
- The Australian Government funded of six National Women's Alliances, including an alliance for Aboriginal and Torres Strait Islander women called the National Aboriginal and Torres Strait Islander Women's Alliance.
- The Australian Government supported the participation of NGO representatives, including Aboriginal and Torres Strait Islander women, at the Commission on the Status of Women.
- Megan Davis, an Aboriginal woman, was elected to the United Nations Permanent Forum on Indigenous Peoples.
- Work being done by NGOs to increase the representation of Aboriginal and Torres Strait Islander women in Australia, particularly through developing skills and knowledge in representation and political participation (for example, Oxfam Australia's *Straight Talk* program that gives Aboriginal and Torres Strait Islander women the opportunity to learn about how to use the Australian political system for change).

RECOMMENDATION PROPOSED FOR CONCLUDING OBSERVATIONS

⇒ THAT the National Congress of Australia's First Peoples be commended for its leadership in establishing an executive with equal representation of women and men.

⇒ THAT the Australian Government be commended for its support for the establishment of the National Congress of Australia's First Peoples.

⇒ THAT the Australian Government adopt mechanisms to ensure that the opinions of the National Congress are into account by the Government.

CHALLENGES

Representation of Aboriginal and Torres Strait Islander women

In 2006 the CEDAW Committee expressed concern about inequalities suffered by Aboriginal and Torres Strait Islander women in political participation. In 2010, mechanisms for the participation of Aboriginal and Torres Strait Islander women in Australian public life and the formulation of Australian public policy remain inadequate despite the developments above. There are no Aboriginal women in the Australian Parliament Federal and few at the State level. Aboriginal and Torres Strait Islander land and community councils continue to be dominated by men.

QUESTION FOR THE AUSTRALIAN GOVERNMENT

⇒ How will the Australian governments ensure that Aboriginal and Torres Strait Islander women are better represented in Australian parliaments and public office?

Insufficient consultation with Aboriginal and Torres Strait Islander women

Aboriginal and Torres Strait Islander women have reported a number of concerns with government consultations. Women report feeling that policy is always developed from the top-down and rarely from the bottom-up and in genuine consultation. In particular, there are concerns that the Northern Territory Intervention measures were implemented with insufficient community consultation (both original and redesigned measures). Women also reported that governments tend to over-consult with particular individuals and communities and under-consult with others.

QUESTION FOR THE AUSTRALIAN GOVERNMENT

⇒ How will the Australian Government ensure Aboriginal and Torres Strait Islander women are genuinely consulted in the development of policies and programs that affect their communities?

RECOMMENDATION PROPOSED FOR CONCLUDING OBSERVATIONS

⇒ THAT all Australian governments establish policies of consultation with Aboriginal and Torres Strait Islander communities that meet the benchmarks established in the *Declaration on the Rights of Indigenous Peoples*, which require genuine respect for cultural integrity and self determination, and provide ongoing and resourced mechanisms to ensure direct dialogue with Aboriginal and Torres Strait Islander women.

⇒ THAT the Australian Government continues to support and fund training and development opportunities to increase participation for Aboriginal and Torres Strait Islander women in representative capacities.

ARTICLE 10: EDUCATION FOR ABORIGINAL & TORRES STRAIT ISLANDER WOMEN

POSITIVE DEVELOPMENTS

Council of Australian Governments' 'Close the Gap' education targets include halving the gap in reading, writing and numeracy achievements within a decade; ensuring all 4 year olds in remote communities have access to early childhood education within five years; and at least halving the gap for Indigenous students in Year 12 attainment or equivalent attainment rates by 2020.

CHALLENGES

While the Council of Australian Governments' 'Close the Gap' targets are welcome, there are many challenges to overcome in achieving these targets.

Provision of early childhood education for children in Aboriginal and Torres Strait Islander communities is extremely inadequate. People in remote areas are particularly disadvantaged as there are often not enough trained staff to provide the services. Although the Australian Government has committed to improve early childhood education, women report this is likely to be a challenge because many communities have insufficient school teaching staff let alone early childhood staff.

At school, Aboriginal and Torres Strait Islander children have lower levels of literacy and numeracy, are less likely to attend school regularly and only half are likely to complete year 12 (final year). Access to mainstream schools does not adequately address cultural and language issues. As with many statistics, those on numeracy, literacy and attendance have only been disaggregated by sex or race, not both. Specific statistics on Aboriginal and Torres Strait Island girls are not available.

Aboriginal and Torres Strait Islander languages: The Northern Territory Government has introduced a new policy requiring the first four hours of education in schools to be conducted in English. According to the UN Educational, Scientific and Cultural Organization, more than 100 languages in Australia are in danger of extinction. Given the central importance of language to the maintenance of

cultures and customs, the policy of forcing education in schools to be conducted in English has the potential to seriously threaten the existence of many Aboriginal and Torres Strait Islander languages.

Young mothers: Aboriginal and Torres Strait Islander women often become mothers at a younger age than other Australians. Many of our women are unable to finish secondary school or continue on to further education because of a lack of affordable childcare.

Post-school education: In 2007, only 26% of Aboriginal and Torres Strait Islander people had a qualification past year 12, compared to 53% of non-Indigenous people. Aboriginal and Torres Strait Islander women are also more likely than Aboriginal and Torres Strait Islander men to be neither employed nor studying. Barriers to continuing education past school include fees, child care costs and the availability and inadequacy of student support payments for women providing for a family.

Extreme racism in schools and other educational institutions: Aboriginal and Torres Strait Islander women report that they and their children experience extreme racism in schools and universities, both from other students, and from teachers who on occasion are culturally ignorant, racist, and ill-equipped to teach Aboriginal and Torres Strait Islander students.

RECOMMENDATIONS PROPOSED FOR CONCLUDING OBSERVATIONS

- ⇒ THAT all Australian governments develop a national strategy for increasing the numbers of Aboriginal and Torres Strait Islander people employed in the education sector and provide appropriate training and development in a culturally sensitive manner.
- ⇒ THAT all Australian governments take positive and necessary measures to ensure that Aboriginal and Torres Strait Islander people enjoy the right to identity and culture, including the maintenance and use of their traditional languages.
- ⇒ THAT the Australian Government support and fund community programs to assist Aboriginal and Torres Strait Islander girls to stay at school.

ARTICLE 11: EMPLOYMENT FOR ABORIGINAL & TORRES STRAIT ISLANDER WOMEN

POSITIVE DEVELOPMENTS

Council of Australian Governments' 'Close the Gap' employment targets that include halving the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade.

CHALLENGES

High unemployment: Unemployment rates for Aboriginal and Torres Strait Islander women remain unacceptably high and discrimination, lack of education and opportunities are very real barriers to employment. The unemployment rate for Aboriginal and Torres Strait Islander people in 2006 was 16% compared to 5% for non-Indigenous people, with women having a slightly higher unemployment percentage than men. In 2007, the employment rate for Aboriginal and Torres Strait Islander women was 47.9% compared to 65.1% for Aboriginal and Torres Strait Islander men.

High levels of unpaid and volunteer work: Aboriginal and Torres Strait Islander women do huge amounts of unpaid work as carers for children, relatives with disabilities, and elderly relatives. There are frequently no alternatives for the provision of these services in communities. Unpaid work is essential to the continued functioning of many communities, but is rarely acknowledged or financially recognised. The burden of unpaid work greatly diminishes the capacity for Aboriginal and Torres Strait Islander women to participate in paid work and community leadership roles.

Retirement income: Life expectancy for Aboriginal and Torres Strait Islander women means that women are unlikely to be eligible for aged pension or retirement income schemes.

RECOMMENDATIONS PROPOSED FOR CONCLUDING OBSERVATIONS

- ⇒ THAT the Australian Government give consideration to a census approach, similar to the model used in New Zealand, to investigate the levels of unpaid and volunteer work amongst Aboriginal and Torres Strait Islander women.

⇒ THAT the Australian Government take steps to implement a system to ensure that access to the Age Pension and superannuation is available to Aboriginal and Torres Strait Islander women at an age that matches their life expectancy and guarantees a comparable period of life to be devoted to retirement activities.

ARTICLE 12: HEALTH FOR ABORIGINAL & TORRES STRAIT ISLANDER WOMEN

POSITIVE DEVELOPMENTS

- Council of Australian Governments' 'Close the gap' health targets: including halving the gap in mortality rates for Indigenous children under 5 years old within a decade and closing the life expectancy gap within a generation, and the commitment of \$1.6 billion by Australian governments to improve Aboriginal and Torres Strait Islander health outcomes.
- The Australian Women's Health Network Aboriginal Women's Talking Circle launched its first *National Aboriginal and Torres Strait Islander Women's Health Strategy* in May 2010. The Australian Government has said it will consider the strategy's findings in developing future policy.

RECOMMENDATION PROPOSED FOR CONCLUDING OBSERVATIONS

⇒ THAT the Australian Government be commended for its commitment to a new National Women's Health Strategy, and that it incorporate the recommendation of the Aboriginal Women's Talking Circle into its health and closing the gap policies.

CHALLENGES

There is a continuing health crisis for our people. Aboriginal and Torres Strait Islander people have higher levels of ill health, disease and death rates across all age groups:

- life expectancy at birth for Aboriginal and Torres Strait Islander women is 72.9 years of age compared with 82.6 years for non-Indigenous women;
- almost one quarter of people in rural Aboriginal and Torres Strait Islander communities may be infected by sexually transmissible infections;
- chronic disease (cardiovascular disease, kidney problems and diabetes), injuries and respiratory infections account for 75% of the life expectancy gap between Aboriginal and Torres Strait Islander people and non-Indigenous Australians;
- Aboriginal and Torres Strait Islander people have cataracts and either complete or partial blindness at higher rates than non-Indigenous people;
- Aboriginal and Torres Strait Islander women do not have access to primary health care programs due to lack of local access, with most health services tending to focus on problems of acute care.

Lack of comprehensive long-term plan

On 11 February 2010 the Close the Gap Steering Committee for Indigenous Health Equality's *Shadow Report on the Australian Government's progress towards closing the gap in life expectancy between Indigenous and non-Indigenous Australians* was released. The report found that while the Government had taken some positive steps in putting in place a number of national agreements to address Indigenous health, the Government has no comprehensive long-term plan (with measurable targets) to close the gap on Aboriginal and Torres Strait Islander health inequality by 2030 despite its commitment to this goal.

RECOMMENDATIONS PROPOSED FOR CONCLUDING OBSERVATIONS

⇒ THAT the Australian Government respond to and implement the recommendations of the Close the Gap Shadow Report.

⇒ THAT the Australian Government ensure access to primary health care, appropriate housing, adequate sanitation and reliable supplies of clean water, and fresh food for Aboriginal and Torres Strait Islander communities.

- ⇒ THAT the Australian Government allocate additional funds to recruit and train sufficient health care workers for all Aboriginal and Torres Strait Islander women to have access to medical services.
- ⇒ THAT the Australian Government respond to and implement the recommendations of the Close the Gap Shadow Report.
- ⇒ THAT the Australian Government ensure access to primary health care, appropriate housing, adequate sanitation and reliable supplies of clean water and fresh food for Aboriginal and Torres Strait Islander communities.

VIOLENCE AGAINST ABORIGINAL AND TORRES STRAIT ISLANDER WOMEN

POSITIVE DEVELOPMENTS

The Australian Government created a National Council and Plan to Reduce Violence Against Women and Children and committed to implement most of the priority actions in the Council's *Time for Action* report.

CHALLENGES

Violence against Aboriginal and Torres Strait Islander women is a major concern. Aboriginal and Torres Strait Islander women experience horrific levels of violence and are 35 times more likely to be hospitalised as a result of spouse or partner violence than non-Indigenous women. Violence against Aboriginal and Torres Strait Islander women is affected by a number of factors including racism, dispossession, disadvantage and poor living conditions.

Mandatory reporting: Since 2009 health professionals in the Northern Territory have been forced to report domestic and family violence to the police, which disproportionately affects Aboriginal women. There are concerns that mandatory reporting does not improve victim safety, that victims may not seek medical treatment to avoid mandatory reporting, that some health workers lack the experience or are reluctant to meet their obligations, and that police lack capacity or willingness to investigate all reported cases.

RECOMMENDATIONS PROPOSED FOR CONCLUDING OBSERVATIONS

- ⇒ THAT the Australian Government, in implementing the National Plan, address violence against Aboriginal and Torres Strait Islander women in urban, rural, remote and areas.
- ⇒ THAT the Australian Government fund culturally appropriate Aboriginal and Torres Strait Islander women's legal services across Australia, including in urban, rural and remote areas, to assist victims of sexual assault and family violence.
- ⇒ THAT the Northern Territory Government remove the obligation on health professionals for mandatory reporting of domestic and family violence provisions to police.