



Universal Periodic Review of Australia: Issues for inclusion in Australian Government's Report

Women's Legal Services NSW ('WLS NSW') welcomes the opportunity to make a submission to the consultation on the Australian Government's National Report under the United Nations Universal Periodic Review ('National Report'). WLS NSW is a community legal centre that aims to achieve access to justice and a just legal system for women in NSW. We prioritise women who are disadvantaged by their cultural, social and economic circumstances. This submission is informed by the experiences of our clients.

The current Australian Government has made a **positive contribution** towards promoting compliance with its international human rights obligations. This has occurred through the formal Parliamentary Apology to the Indigenous Stolen Generations; the Ratification of the Convention on the Rights of Persons with Disabilities and acceding to the Optional Protocol to CEDAW; the endorsement of the UN Declaration on the Rights of Indigenous Peoples; the establishment of the National Council ('Council') and Plan to Reduce Violence Against Women and Children ('National Plan'); facilitation of the National Human Rights Consultation and funding of women's alliances. The Government should include these in the National Report.

However, there remain a number of **areas of concern and challenge** regarding the Australian Government's implementation of international human rights obligations. WLS NSW encourages the inclusion of the issues outlined below in the National Report.

There continues to be significant barriers to the full enjoyment by **Aboriginal and Torres Strait Islander peoples** of their human rights. WLS NSW strongly advocates for the active participation of Aboriginal and Torres Strait Islander peoples in decision-making processes that affect their lives and rights; that more active steps be taken to address Aboriginal Torres Strait Islander disadvantage in health, education, employment and the impact of the criminal justice system; that more be done to stem the excessively high and increasing numbers of Aboriginal Torres Strait Islander women in prison; that there be greater police accountability, particularly regarding excessive use of force against Aboriginal Torres Strait Islander peoples. WLS NSW supports the implementation of the recommendations made by Special Rapporteur, Mr James Anaya.

WLS NSW commends the Australian Government's funding of the National Aboriginal and Torres Strait Islander Women's alliance and calls for the **funding of National Indigenous Women's representative bodies**.

WLS NSW is concerned about continuing **violence against women**. In response to the review of Australia's compliance with the *International Covenant on Civil and Political Rights* and *International Covenant on Economic, Social and Cultural Rights*, the UN released Concluding Observations ('2009 ICCPR – Concluding Observations') and ('2009 ESCR – Concluding Observations') stating that Australia take further steps to address ongoing issues of violence against women, including the prompt implementation of the National Plan. WLS NSW strongly supports this and further development of legal responses, including enforcement and remedies, which are nationally consistent and recognise violence against women as a



human rights violation. WLS NSW also calls for the proper funding of the implementation of the National Plan, including for the independent monitoring of the National Plan and the resourcing of community organisations to participate.

WLS NSW is also concerned that the level of reporting, charges and prosecutions for sexual assaults remains unacceptably low. Factors contributing to this include an inappropriate legal framework, attitudes of the police, attitudes of prosecutors, attitudes of the judiciary, a reliance on jury trials, and processes and procedures which militate against successful prosecutions and re-traumatise women.

WLS NSW also strongly advocates for greater access to family violence and sexual assault services. For example, due to the lack of qualified practitioners in western NSW (eg, Bourke, Walgett, Brewarrina), sexual assault victims are forced to travel hundreds of kilometres to towns such as Orange, Dubbo and Bathurst for forensic examinations. Victims are not to shower, brush their teeth or change their clothes before being examined. Victims may also be uncomfortable being transported long distances alone with male police officers following a sexual assault. These factors discourage victims of sexual assault in these regions from participating in the forensic process, which has implications for charge and conviction rates for sexual assault.

WLS NSW advocates for **better protection of women and children** in the area of **family law-family violence**. The current law emphasises the benefit to the child of a meaningful relationship with both of their parents, even though this may directly conflict with provisions that are intended to protect children and mothers from family violence and abuse. WLS NSW recommends amending the *Family Law Act* to better protect the safety of women and children.

WLS NSW commends the Australian Government for its formal recognition of the **links between homelessness and domestic violence**. We echo the call made in the 2009 ESCR – Concluding Observations for increased funding to shelters and support services that are appropriate for women fleeing domestic and family violence. WLS NSW also strongly supports the implementation of measures to assist women escaping domestic violence to stay in their homes with the perpetrator leaving.

Greater **access to timely and appropriate legal services**, especially for Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, rural, regional and remote women, women with disabilities, women in prison and young and older women is also required. WLS NSW recommends the implementation of the 2004 & 2009 Access to Justice Inquiries. WLS NSW notes that many women experience multiple forms of discrimination in attempting to access justice and that more needs to be done to adequately address this. WLS NSW recommends an increase in funding to Legal Aid Commissions, Community Legal Centres and funding for separate Aboriginal Torres Strait Islander women’s legal services. We refer to the 2009 ICCPR Concluding Observations which recommend the Australian Government take effective measures to ensure equality in access to justice.

WLS NSW advocates for **improved protection against discrimination**. WLS NSW strongly encourages the Australian Government to implement the recommendations of the Senate Legal and Constitutional Affairs Committee on reform of the *Sex Discrimination Act*, including the issue of enacting an Equality Act to provide a comprehensive regime to promote equality and address all grounds of discrimination. The 2009 ICCPR & ESCR Concluding Observations recommend greater legislative protection against discrimination.

WLS NSW advocates for **better human rights protections** in the form of a Human Rights Act (‘HRA’). A HRA could provide a mechanism to ensure that the day-to-day decision making of Commonwealth public authorities is consistent with human rights. A HRA could not only help build a culture of human rights, but also provide people with a legal remedy when their rights are breached. WLS NSW refers you to its submission to the National Human Rights Consultation for practical examples of the difference a HRA could make to its clients. We also refer to the 2009 ICCPR – Concluding Observations and 2009 ESCR – Concluding Observations which recommend enacting comprehensive legislation to give effect to the respective covenants’ provisions.

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