



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

**Information received from Australia on follow-up to the
concluding observations on its eighth periodic report***

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* The present document is being issued without formal editing.



Introduction

1. In its 25 July 2018, Concluding Observations ([CEDAW/C/AUS/CO/8](#)), the United Nations Committee on the Elimination of Discrimination against Women (Committee) asked Australia to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 12(b) (Constitutional and legal framework for gender equality), 46(b) (Social and economic benefits), 50(a) (Health), and 54(b) (Refugee and asylum-seeking women).
2. Australia provides the following information on implementation of the four recommendations. The Australian Government and all state and territory governments contributed to this report.

Committee Recommendation 12(b): Recognise First Nations in the Constitution to enable indigenous women to claim their rights

3. Australia is a constitutional democracy, founded on the rule of law with a strong tradition of respect for the rights and freedoms of individuals including those of Aboriginal and Torres Strait Islander women and girls. The Australian Government is committed to recognising Indigenous Australians in the Constitution. In Australia, a law for a proposed amendment to the Constitution must be considered by the Australian Parliament and put to a vote of the Australian people. A referendum succeeds if a majority of voters in a majority of states vote in favour of a proposed amendment. Where an issue fails at a referendum, it is unlikely that the issue will be re-considered for a subsequent referendum for a long time, or if at all. The recognition of Indigenous Australians is too important to get wrong.
4. Work toward a referendum to recognise Aboriginal and Torres Strait Islander peoples has been underway for over a decade, and informs the current approach to constitutional recognition. Work began in earnest in 2010 with the appointment of the Expert Panel on Constitutional Recognition of Indigenous Peoples. The Expert Panel report, of January 2012, recommended several changes to the Australian Constitution, including a statement of acknowledgement, a new power to make laws for Aboriginal and Torres Strait Islander peoples, removal of references to race, and a protection against racial discrimination.
5. There has also been an Aboriginal and Torres Strait Islander Peoples Act of Recognition Review Panel (reported September 2014), and a Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (reported June 2015).
6. In December 2015, the then Prime Minister, the Hon Malcolm Turnbull MP, and the then Opposition Leader, the Hon Bill Shorten MP, established a Referendum Council which conducted a series of dialogues around the country. The Referendum Council delivered its Final Report on 30 June 2017.¹ The recommendations shifted the conversation to provision in the Constitution for a body that gives Aboriginal and Torres Strait Islander peoples a voice to the Australian Parliament, as well as an extra-constitutional Declaration of Recognition to be legislated by all Australian Parliaments.
7. In March 2018, the Australian Parliament established a Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander

¹ See https://www.referendumcouncil.org.au/sites/default/files/report_attachments/Referendum_Council_Final_Report.pdf.

Peoples. The Joint Select Committee delivered its report to the Australian Parliament on 29 November 2018.² The Report recommended:

- a co-design process to articulate the detail of the First Nations Voice to the Parliament;
- subsequent to co-design, the Australian Government consider legislative, executive and constitutional options to establish the First Nations Voice; and
- the Australian Government supports the process of truth telling and considers the establishment of a National Resting Place for Aboriginal and Torres Strait Islander remains which could be a place of commemoration, healing and reflection.

8. The Australian Government has adopted the recommendations and is progressing work on the development of an Indigenous voice through a process of co-design with Indigenous women and men.

Committee Recommendation 46(b): Reinstate funding to services that focus on women’s rights and to women’s organizations, including to those which focus on the rights of indigenous women

9. The Australian Government provides funding to women’s organisations and services that focus on women’s rights, including the rights of Indigenous women.

Women’s Leadership and Development Program

10. The Australian Government provides funding through the Women’s Leadership and Development Program (WLDP) to improve outcomes for Australian women. The WLDP appropriation for 2020–2024 is AUD \$59.06 million.

11. The WLDP supports projects to improve outcomes for Australian women in job creation, economic security, workforce participation, leadership, safety and international engagement. It also supports six National Women’s Alliances which address issues on leadership and gender equality, violence against women, women’s economic security, and issues specific to culturally and linguistically diverse women, Aboriginal and Torres Strait Islander women, and women living in rural and remote areas.

Sex Discrimination Commissioner

12. The Australian Government provides funding to the Australian Human Rights Commission (AUD \$21.014 million for the 2020–21 financial year). The Australian Sex Discrimination Commissioner is responsible for overseeing the Sex Discrimination Act, addressing sex discrimination and promoting gender equality in Australia.

² See https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Former_Committees/Constitutional_Recognition_2018/ConstRecognition/Final_Report.

2020 Women's Economic Security Statement

13. The Australian Government released the 2020 Women's Economic Security Statement on 6 October 2020, with \$240.4 million over five years to provide targeted support for women to strengthen their employment opportunities, pay, participation and flexibility. The five priority areas are (i) repair and rebuild women's workforce participation and further close the gender pay gap; (ii) provide choice and flexibility for families to manage work and care; (iii) support women as leaders and positive role models; (iv) respond to the diverse needs of women, and (v) support women to be safe at work and home.

Women's safety

14. The Australian Government has committed AUD \$340 million towards the Fourth Action Plan of the *National Plan to Reduce Violence against Women and their Children 2010–2022*. The Australian Government also provided AUD \$150 million for the COVID-19 Domestic Violence Support package.

Legal assistance

15. The Australian Government is providing over AUD \$2 billion through the National Legal Assistance Partnership (NLAP) 2020-25 to the states and territories for frontline legal assistance services, delivered by community legal centres (CLCs), legal aid commissions (LACs), Aboriginal and Torres Strait Islander Legal Services (ATSILS).

16. Of the AUD \$2 billion, a minimum of \$165.9 million is for family law and family violence matters. This includes AUD \$94.8 million in dedicated funding for the CLCs, LACs and ATSILS. This complements baseline funding provided through the NLAP, which can be used by LACs, CLCs and ATSILS to address family law and/or family violence matters. It also includes AUD \$51.1 million for specialist Domestic Violence Units and Health Justice Partnerships, which provide tailored legal assistance and other holistic support services to women, and AUD \$19.9 million for the Family Advocacy and Support Service (FASS), which combines free legal advice and support at court for people affected by domestic and family violence.

17. Under the NLAP, Aboriginal and Torres Strait Islander people and people experiencing, or at risk of, family violence are priority client groups for legal assistance services. In addition, the NLAP includes a formal commitment to the principles of self-determination, which acknowledges that Aboriginal Controlled Community Organisations are best placed to deliver culturally appropriate services in their respective communities.

18. In May 2020 the Australian Government announced the Justice Sector Preparedness Package, providing an additional \$63.3 million from 2019–2021 for the legal assistance sector to meet increased service demand due to COVID-19.

Aboriginal and Torres Strait Islander women

19. The Australian Government funds 14 Family Violence Prevention Legal Service (FVPLS) providers through the Indigenous Advancement Strategy in regional and remote locations. The FVPLS provide culturally sensitive legal and non-legal assistance to Aboriginal and Torres Strait Islander survivors of family violence and sexual assault.

20. The Australian Government also funds seven Indigenous Women's Program service providers and five Supplementary Legal Assistance program service providers in regional and remote locations for culturally-sensitive and equitable access to legal assistance and related services for Aboriginal and Torres Strait Islander women.

21. The Australian Government continues to support³ Australia's Aboriginal and Torres Strait Islander Social Justice Commissioner, Ms June Oscar AO, to deliver the Wiyi Yani U Thangani (Women's Voices) national consultation project. Informed by conversations with over 2,300 Aboriginal and Torres Strait Islander women and girls from 50 communities across the country, the Wiyi Yani U Thangani report will make recommendations for all Australian governments to ensure that the issues that matter to, and opportunities for empowerment of, Aboriginal and Torres Strait Islander women and girls are prioritised. The report, released on 9 December 2020, will drive future policy development. Stage Two of the Wiyi Yani U Thangani project aims to improve partnerships between communities, organisations and governments, and develop resources for Indigenous women and girls to start driving local change.

Committee Recommendation 50(a): Implement the recommendation made by the Children's Commissioner in 2017 to review state and territory laws, policies and practices to guarantee access to legal and prescribed abortion services and to raise awareness of sexual and reproductive health rights among women and girls, parents, teachers, medical professionals and the general public and create safe zones around abortion clinics

22. Australian governments are committed to implementing policies, programs and practices that ensure all Australians have equitable access to sexual and reproductive health services. The policies and programs ensure populations have access to affordable, high quality sexual and reproductive health services, and provide sexual and reproductive health professional development to the health, education and community service industries.

23. Care provided by the services affirms the right to healthy sexual relationships that are free of coercion and control. This includes increasing sexual and reproductive health literacy through improving access to a full, safe and effective range of reproductive and contraceptive information and options, as well as promoting access to resources for students and parents to learn more about sexual and reproductive health.

24. State and Territories are responsible for laws relating to abortion. Surgical and medical abortion is legal in all jurisdictions, however gestation limits for when abortion can be accessed and safe zones vary between states and territories.

Federal Government

25. Australia actively champions and maintains a long-standing commitment to the promotion and protection of sexual and reproductive health and rights as a global and domestic health priority, and as essential to the achievement of universal health coverage and the targets established under the Sustainable Development Goals.

³ <https://www.indigenous.gov.au/news-and-media/announcements/minister-scullion-fourth-action-plan-measures-aboriginal-and-torres>.

26. The Australian Government provides funding for the delivery of education to health professionals and individuals on sexual and reproductive health services, subsidises a range of contraceptive medicines through the Pharmaceutical Benefits Scheme (PBS) and ensures women have access to safe abortion procedures through the Medicare Benefits Schedule (MBS).

27. Medical abortion is nationally regulated through the Therapeutic Goods Administration, the body responsible for approving medications for use in Australia, and is listed on the Pharmaceutical Benefits Scheme, making it more affordable for Australians. The funded service is an oral tablet pack (mifepristone and misoprostol) for an intra-uterine pregnancy of up to 63 days of gestation.

Australian Capital Territory

28. Since 2002, the ACT has regulated abortion in the same way as any other medical procedure under the *Health Act 1993*. Both medical and surgical abortions are legal in the ACT and there is no gestation limit provided in the ACT legislation.

29. In 2018, the ACT Government amended Part 6 of the *Health Act 1993* to create separate definitions for medical and surgical abortions and remove the requirement for a medical abortion to be carried out at an approved facility. This reform increased accessibility within the ACT by allowing a person to have a medical abortion at home through the provision of telehealth and/or a General Practitioner, or surgical abortion in an approved medical facility. These changes commenced on 1 July 2019.

30. The amendment facilitated doctors and pharmacists to have a protected area placed around their clinic or store to provide a 50-metre zone where people cannot harass, hinder, intimidate, interfere with, threaten or obstruct a person, including capturing visual data of the person, while accessing abortion services. This amendment built on the existing protected area provisions outlined in the *Health Act 1993*, which are currently in place around the only abortion clinic in the ACT.

New South Wales

31. Abortion is a safe and legal reproductive health choice in NSW and is available in a range of public and private settings.

32. In October 2019, the NSW Parliament enacted the *Abortion Law Reform Act 2019* (Act) reforming the law relating to terminations of pregnancies and regulating the conduct of health practitioners in relation to abortions. On commencement of the Act, amendments were made to the Crimes Act 1900 to repeal the provisions of that Act relating to abortions and to abolish the common law offences relating to abortion.

33. In June 2018, following the passing of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 the *Public Health Act 2010* was amended to establish “safe access zones” around NSW reproductive health clinics at which abortions are performed. This included the introduction of offences for “interfering with” (e.g. harassing), and/or communicating in a manner that is likely to cause actual or potential distress or anxiety to a person accessing or leaving a safe access zone or clinic.

34. The safe access zone around a reproductive health clinic comprises the clinic premises and the area within 150 metres of that premises or a pedestrian access point to a building that houses the clinic. The establishment of safe access zones ensures the entitlement of people to access health services, including abortions, is respected and in a manner that protects their safety and wellbeing and respects their privacy and

dignity. This includes employees and other persons who need to access such clinics in the course of their duties and responsibilities.

35. NSW Government provides annual grant funding to 20 Women's Health Centres across the State, including funding to Women's Health NSW which supports the centres. The centres aim to combine medical and clinical services and a range of counselling, health promotion, education, self-help and consumer advocacy services. The 2020–21 funding was \$12.1 million.

Northern Territory

36. The *Termination of Pregnancy Law Reform Act* was passed in the Northern Territory's Legislative Assembly on 21 March 2017 and commenced on 1 July 2017. The legislative reform guaranteed access to legal and prescribed abortion services for all Territorians, removed termination of pregnancy from the criminal code and legalised the provision of termination of pregnancy services by suitably qualified medical practitioners in both hospital and out-of-hospital settings. The legislation also includes provisions for conscientious objection and establishes safe access zones near premises where termination services are provided.

Queensland

37. On 17 October 2018, the *Termination of Pregnancy Act 2018* (the Act) was passed through parliament and became law on 3 December 2018. The new legislative framework amended the Queensland Criminal Code to remove abortion as an offence and created a new offence for an unqualified person to perform or assist in an abortion. The Act allows for abortion on request up to 22 weeks' gestation, and for termination after 22 weeks with consent from two medical practitioners.

38. The Act also included safe access zones of 150 metres around clinics to shield women from harassment. The Act also requires registered health practitioners who are conscientious objectors to refer women to a medical practitioner who will perform a termination.

South Australia

39. South Australian residents up to 23 weeks pregnant can have an early medication or surgical abortion. In November 2020, the South Australian parliament passed legislation that requires a 150-metre exclusion zone from the entrance to abortion clinics.

40. In 2019, the South Australian Attorney-General commissioned the South Australian Law Reform Institute (SALRI) to inquire into and report on abortion, with a view to modernising the current law and adopting best practice reforms to regulate the termination of pregnancy as a lawful health procedure. The 2019 SALRI report, 'Abortion: A Review of South Australian Law and Practice', contains 66 recommendations for reform, including that abortion be removed from the criminal law and replaced with appropriate standalone provisions to regulate the termination of pregnancy as a lawful health procedure. The Termination of Pregnancy Bill 2020 was introduced into Parliament in October 2020. The Bill will repeal abortion from the criminal law and treat it as a regulated health procedure within a new standalone Act.

Tasmania

41. Abortion was decriminalised in Tasmania in November 2013. The *Reproductive Health (Access to Terminations) Act 2013* (the Act) was introduced to regulate abortions in Tasmania. Abortion is lawful on request up to 16 weeks gestation, and beyond that period with the agreement of two doctors.

42. Under the Act if a person seeks a termination or advice on pregnancy options from a medical practitioner who has a conscientious objection to terminations, the practitioner must provide the woman with a list of the prescribed health services from which she can seek advice, information or counselling on the full range of pregnancy options. This aims to ensure access to these services regardless of an individual medical practitioner's views.

43. The Act also establishes 150-metre access zones around premises where termination services are provided. Under the Act, it is illegal for anyone to undertake behaviour that is besetting, harassing, intimidating, threatening, hindering, obstructing or impeding a person, or to protest in relation to terminations within an access zone. Significant penalties apply if people engage in prohibited behaviour, including fines of up to AUD \$12,900 and/or up to 12 months imprisonment.

Victoria

44. In Victoria, a woman can access abortion up to a gestational limit of 24 weeks, in accordance with the *Abortion Law Reform Act 2008*. Beyond 24 weeks, a medical practitioner can provide an abortion if another medical practitioner agrees that an abortion is appropriate in all the circumstances.

45. The *Public Health and Wellbeing Amendment (Safe Access Zones) Act 2015* ensures that women and staff entering or leaving premises performing abortions can do so safely and privately, without fear or harassment.

46. Introduction of the *Abortion Law Reform Act* has strengthened the referral pathways across Victoria's network of general practitioners and community-based family planning hubs to enable and improve women's access to the reproductive health services they need, earlier and closer to home.

Western Australia

47. In Western Australia (WA), provisions relating to abortion are contained in the *Criminal Code Compilation Act 1913 (WA)* and the *Health (Miscellaneous Provisions) Act 1911*. In 1998, the Criminal Code Compilation Act 1913 was amended to specify that it is unlawful to perform an abortion unless the abortion is performed by a medical practitioner in good faith, with reasonable care and skill, and justified under section 334 of the *Health (Miscellaneous Provisions) Act 1911*.

48. Under the *Health (Miscellaneous Provisions) Act 1911*, abortion is available on request up to less than 20 weeks of pregnancy and with informed consent. Additional restrictions apply to 'a woman who is a dependant minor'. If aged under 16 years and financially supported by a parent or guardian, for an abortion to proceed the parent or guardian of the pregnant girl must be informed or the girl may apply to the Children's Court for an order that it is not suitable to involve her parent or guardian. Abortion services may be offered by public hospitals, private hospitals, clinics and general practitioners.

49. The *Public Health Amendment (Safe Access Zones) Bill 2020* (“the Bill”) was introduced into the Western Australian Parliament on 14 October 2020. The object of the Bill is to protect and respect the safety, dignity, wellbeing and privacy of individuals seeking access to premises at which abortions are provided, as well as protecting staff working at such premises. The Legislative Assembly passed the Bill on 12 November 2020. The Bill was introduced into the Legislative Council on 24 November 2020.

Committee Recommendation 54(b): Stop offshore processing in Nauru and the processing of asylum claims at sea, and ensure that all women and girls seeking asylum have access to gender-sensitive and fair refugee status determination processes within the territory of the State party and to legal representation and legal remedies

50. The Australian Government maintains regional processing arrangements with Nauru for persons arriving to Australia by unauthorised maritime venture to support the regional processing of their protection claims and third country resettlement. Regional processing arrangements in Nauru, and the management of individuals, is the responsibility of the Government of Nauru.

51. Regional processing arrangements are implemented in accordance with international law and respect for human rights. The Republic of Nauru is a State Party to the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol*, as well as other international human rights treaties. Individuals under regional processing arrangements have their protection claims assessed by the Government of Nauru in accordance with Nauru’s *Refugees Convention Act 2012*, and receive assistance to lodge their protection claims.

52. While Australia does not administer regional processing arrangements in Nauru, it does support the Government of Nauru to implement regional processing arrangements through the contracting of specialist health and welfare services. Amenities and services are provided to care for and manage persons transferred to Nauru under regional processing arrangements, including specialist services for women and children. Service providers deliver age-appropriate health, education, recreational and cultural services, providing access to educational programmes, prayer and library facilities, and recreational activities. Dedicated health services include child psychologists and psychiatrists, obstetrics, post-natal health care and child maternal health.

53. Under Australia’s strong border protection policies, Australia will continue to transfer unauthorised maritime arrivals to a regional processing country for protection claims assessment and third country resettlement. These policies are applied equally across all unauthorised maritime arrivals including men, women, and children, successfully stemming the flow of people smuggling ventures to Australia and preventing loss of life at sea.

54. Australia remains committed to, and is working toward, establishing an enduring regional processing capability in Nauru.