



# Convention on the Rights of Persons with Disabilities

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## Committee on the Rights of Persons with Disabilities

### Concluding observations on the combined second and third periodic reports of Australia\*

#### I. Introduction

1. The Committee considered the combined second and third periodic reports of Australia (CRPD/C/AUS/2-3) at its 499th and 500th meetings (see CRPD/C/SR.499 and 500), held on 12 and 13 September 2019. It adopted the present concluding observations at its 511th meeting, held on 20 September 2019.
2. The Committee welcomes the combined second and third periodic reports of Australia, which were prepared in accordance with the Committee's reporting guidelines and in response to its list of issues prior to reporting (CRPD/C/AUS/QPR/2-3).
3. The Committee appreciates the constructive dialogue held during the consideration of the reports and commends the State party for its high-level delegation, which included representatives of the relevant government ministries and departments.

#### II. Positive aspects

4. The Committee appreciates the following:
  - (a) The adoption of the National Disability Insurance Scheme Act 2013;
  - (b) The adoption of states' and territories' legislation and policies such as the Disability Inclusion Act 2018, the Disability Services Act 1986, the disability justice plans and the Disability Discrimination Act 1992 action plans;
  - (c) The adoption of the disability inclusion strategy for development assistance Development for All 2015–2020;
  - (d) The adoption of the new National Disability Employment Framework;
  - (e) The adoption of the Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability;
  - (f) The establishment of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, in 2019;
  - (g) The establishment of the National Disability and Carers Advisory Council;
  - (h) The commitment to introduce a 7 per cent employment target for persons with disabilities in the public service;

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\* Adopted by the Committee at its twenty-second session (26 August–20 September 2019).



(i) The endorsement of a new national disability data set bringing together Commonwealth, state and territory data from across multiple sources and systems to provide a more complete picture of the requirements of persons with disabilities.

### **III. Principal areas of concern and recommendations**

#### **A. General principles and obligations (arts. 1–4)**

5. The Committee is concerned about:

(a) The insufficient harmonization of the domestic legal framework with the Convention;

(b) The lack of progress made to review and withdraw the interpretive declarations on articles 12, 17 and 18 of the Convention;

(c) The serious delays in releasing the third plan for implementing the National Disability Strategy 2010–2020;

(d) The weakness of the mechanisms and the limited funding available under the National Disability Strategy and the National Disability Agreement for the full and effective engagement of persons with disabilities, through their representative organizations, in policy development, implementation and monitoring of actions relating to the Convention;

(e) The disability assessment that individuals must undergo in order to be eligible to receive services through the National Disability Insurance Scheme, which still relies heavily on the medical model of disability and does not provide older persons with disabilities, persons with disabilities from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander persons with disabilities and persons with intellectual or psychosocial disabilities with equal opportunities;

(f) The inaccessibility of the National Disability Insurance Scheme due to complex procedures, limited publically available and accessible information and the lack of services in remote areas;

(g) The unsustainability and inadequacy of resources for continuous, individual and independent advocacy programmes.

6. **The Committee recommends that the State party:**

(a) **Fully harmonize domestic legislation with the Convention by carrying out disability rights impact assessments on legislative changes that may affect the rights of persons with disabilities;**

(b) **Review and withdraw the interpretative declarations on articles 12, 17 and 18 of the Convention;**

(c) **Roll out the third plan for implementing the National Disability Strategy;**

(d) **In close consultation with and with the effective participation of diverse organizations of persons with disabilities, ensure that the National Disability Agreement and the next national disability strategy receive adequate resources, an implementation plan with measurable goals and a robust monitoring mechanism, a formal performance reporting framework and evaluation, governance and accountability requirements, including through the implementation of the recommendations made by the Productivity Commission;**

(e) **Review disability assessment criteria for support schemes under the National Disability Insurance Scheme and align them with the human rights model of disability, ensuring adequate support for older persons with disabilities, persons with disabilities from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander persons with disabilities and persons with intellectual or psychosocial disabilities;**

(f) **Simplify, clarify and make National Disability Insurance Scheme procedures more transparent, including by making information publically available and accessible, and ensure that the Scheme meets the diverse and intersecting requirements of persons with disabilities in all areas;**

(g) **Ensure that persons with disabilities are able to access continuous, sustainable and adequately resourced individual and independent advocacy programmes, particularly those not part of the National Disability Insurance Scheme.**

7. The Committee is concerned that there are no permanent or effective mechanisms to ensure the active participation of persons with disabilities, through their representative organizations, in the implementation and monitoring of the Convention.

8. **The Committee recommends that the State party, in line with the Committee's general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, establish formal and permanent mechanisms to ensure the full and effective participation of persons with disabilities, including children with disabilities, through their representative organizations, in the development and implementation of legislation and policies to implement the Convention, ensuring adequate resources and the provision of the necessary support. It recommends that the State party involve Aboriginal and Torres Strait Islander persons with disabilities and their representative organizations in particular in all aspects of the design, implementation, monitoring and evaluation of the Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability.**

## **B. Specific rights (arts. 5–30)**

### **Equality and non-discrimination (art. 5)**

9. The Committee is concerned that there is no effective legislative framework to protect persons with disabilities from systemic, intersectional and multiple forms of discrimination, especially at the Commonwealth level, that Aboriginal and Torres Strait Islander persons with disabilities are particularly disadvantaged and are often not consulted on matters that affect them, and that the complaints mechanisms under existing law, especially the Disability Discrimination Act 1992, are inaccessible to persons with disabilities.

10. **In line with its general comment No. 6 (2018) on equality and non-discrimination, the Committee reiterates its previous recommendation (CRPD/C/AUS/CO/1, para. 15) that the State party strengthen anti-discrimination laws, particularly the Disability Discrimination Act 1992, to:**

(a) **Address and prohibit systemic, intersectional and multiple forms of discrimination, recognizing discrimination on a single or on multiple and/or intersectional characteristics and allowing for systematic complaints, representative and group actions and sanctions for addressing lack of access and discriminatory behaviour;**

(b) **Support persons with disabilities in making their own decisions, taking action and filing complaints, especially persons with high support requirements and persons with intellectual or psychosocial disabilities.**

### **Women with disabilities (art. 6)**

11. The Committee is concerned about:

(a) The low percentage of women and girls with disabilities, particularly of Aboriginal and Torres Strait Islander backgrounds, that have access to services under the National Disability Insurance Scheme;

(b) The limited opportunities for women and girls with disabilities to participate in the development of policies regarding the rights of women and gender equality.

**12. In line with its general comment No. 3 (2016) on women and girls with disabilities and in view of targets 5.1, 5.2 and 5.5 of the Sustainable Development Goals, the Committee recommends that the State party strengthen measures to address multiple and intersectional forms of discrimination against women and girls with disabilities and, in particular, that it:**

(a) **Facilitate access to services under the National Disability Insurance Scheme for women and girls with disabilities, particularly those of Aboriginal and Torres Strait Islander background;**

(b) **Adequately support organizations and networks of women and girls with disabilities, particularly those representing Aboriginal and Torres Strait Islander women and girls with disabilities, to engage in all initiatives to promote gender equality and ensure their effective participation in the development of policies for gender equality and the advancement of women and girls.**

#### **Children with disabilities (art. 7)**

13. The Committee is concerned about:

(a) The lack of focus on the rights of children with disabilities in the national plan of action for the realization of the rights of the child;

(b) The lack of access to early intervention mechanisms for children with disabilities;

(c) The lack of disability- and age-appropriate assistance for children with disabilities to participate and express their views;

(d) The lack of culturally suitable support for Aboriginal and Torres Strait Islander children with disabilities and their families;

(e) The situation of refugee and asylum-seeking children with disabilities kept in detention facilities in the State party and offshore.

**14. The Committee recommends that the State party:**

(a) **Include a focus on the rights of children with disabilities in any national plan of action for the realization of the rights of the child;**

(b) **Ensure access for children with disabilities to quality and human rights-based early intervention mechanisms;**

(c) **Amend all legislation to guarantee that children with disabilities are provided with age-appropriate support and accommodations to express their views in all matters that affect their rights or interests;**

(d) **Fund and resource culturally suitable support for Aboriginal and Torres Strait Islander children with disabilities and their families, in the local community;**

(e) **Urgently remove all refugee and asylum-seeking children, particularly children with disabilities and their families, from detention facilities, ensure the provision of individualized support and recognize the denial of reasonable accommodation as a form of discrimination.**

#### **Awareness-raising (art. 8)**

15. The Committee is concerned about the lack of concerted efforts at all levels and about the low level of participation of persons with disabilities, particularly women, Aboriginal and Torres Strait Islander persons, persons with disabilities from culturally and linguistically diverse backgrounds and lesbian, gay, bisexual, transgender, intersex and queer persons with disabilities, through their representative organizations, to promote awareness-raising efforts about disability, including campaigns promoting a positive image and awareness of the contribution of persons with disabilities, in line with the Convention.

16. **The Committee recommends that the State party develop a national government strategy to promote a positive image and awareness of the rights of all persons with disabilities and that it ensure the consultation and participation of representative organizations of persons with disabilities, particularly women, Aboriginal and Torres Strait Islander persons, persons with disabilities from culturally and linguistically diverse backgrounds and lesbian, gay, bisexual, transgender, intersex and queer persons with disabilities, in the development and delivery of all awareness-raising activities.**

#### **Accessibility (art. 9)**

17. The Committee is concerned about:

(a) The lack of a national framework for reporting compliance with the Disability Standards for Accessible Public Transport 2002, the Disability (Access to Premises – Buildings) Standards 2010 and the National Standards for Disability Services;

(b) The significant proportion of the existing built environment that is inaccessible and the lack of mandated national access requirements for housing in the National Construction Code;

(c) The lack of comprehensive and effective measures to implement the full range of accessibility obligations under the Convention, including the lack of information and communications technologies and systems.

18. **In the light of article 9 of the Convention and its general comment No. 2 (2014) on accessibility, the Committee recommends that the State party, taking into account goal 9 and targets 11.2 and 11.7 of the Sustainable Development Goals:**

(a) **Establish and enact a national framework for reporting compliance with the Disability Standards for Accessible Public Transport 2002, the Disability (Access to Premises – Buildings) Standards 2010 and the National Standards for Disability Services;**

(b) **Amend the federal law by including mandatory rules on access for all new and extensively modified housing;**

(c) **Take the necessary legislative and policy measures, such as the development of public procurement criteria, to implement the full range of accessibility obligations under the Convention, including regarding information and communications technologies and systems, and ensure effective sanctions measures for non-compliance.**

#### **Right to life (art. 10)**

19. The Committee is concerned about:

(a) The significantly lower life expectancy of persons with disabilities, particularly persons with intellectual disabilities and persons with disabilities within Aboriginal and Torres Strait Islander communities, than that of the general population;

(b) A significant number of persons with disabilities expressing suicidal ideation, particularly within Aboriginal and Torres Strait Islander communities, due to, inter alia, lack of support, poverty and isolation;

(c) The high rate of premature and unexpected but avoidable deaths among persons with disabilities in care settings.

20. **The Committee recommends that the State party:**

(a) **Address the low life expectancy of persons with disabilities, especially persons with intellectual disabilities and persons with disabilities within Aboriginal and Torres Strait Islander communities;**

(b) **Ensure that its national mental health and suicide prevention plans include targeted measures for persons with disabilities, particularly children with disabilities, and develop, in consultation with Aboriginal and Torres Strait Islander**

**persons with disabilities, culturally appropriate measures to prevent, identify and address the high rate of suicide among those populations;**

**(c) Ensure a comprehensive approach to suicide prevention among persons with disabilities in the training of all professionals working with and for persons with disabilities, including health, social, education and community workers.**

#### **Situations of risk and humanitarian emergencies (art. 11)**

21. The Committee, recognizing that the effects of climate change contribute to exacerbating inequality and vulnerability among persons with disabilities, remains concerned about the lack of:

(a) Nationally consistent emergency management standards that ensure access to disability-specific and disability-responsive support during emergencies;

(b) A mechanism for engagement with organizations of persons with disabilities in the implementation of the Sendai Framework for Disaster Risk Reduction 2015–2030 at the national level and in its reporting process.

**22. The Committee reiterates its previous recommendation on the matter (CRPD/C/AUS/CO/1, para. 23) and recommends that the State party, in close consultation with representative organizations of persons with disabilities, establish a fully accessible and inclusive mechanism to engage with persons with disabilities in the implementation and monitoring of the Sendai Framework.**

#### **Equal recognition before the law (art. 12)**

23. Despite the recommendations of the Australian Law Reform Commission, the Committee is concerned about the lack of progress made to abolish the guardianship system and substituted decision-making regime, particularly in decisions concerning forced psychiatric treatment, and at the lack of a time frame to completely replace that regime with supported decision-making systems.

**24. Recalling its general comment No. 1 (2014) on equal recognition before the law, the Committee recommends that the State party:**

(a) **Repeal any laws and policies and end practices or customs that have the purpose or effect of denying or diminishing the recognition of any person with disabilities as a person before the law;**

(b) **Implement a nationally consistent supported decision-making framework, as recommended in a 2014 report of the Australian Law Reform Commission entitled *Equality, Capacity and Disability in Commonwealth Laws*.**

#### **Access to justice (art. 13)**

25. The Committee is concerned about:

(a) The fact that only some states and territories have passed legislation to support the equal participation of persons with disabilities in the jury system while the rest and the federal Government have not done so;

(b) The lack of nationally consistent disability justice plans across governments to ensure that persons with disabilities are supported in accessing the same legal protections and redress as the rest of the community, particularly persons with intellectual or psychosocial disabilities whose reasonable and procedural accommodations are not adequately met;

(c) The fact that legislation still views persons with disabilities as being unfit to plead;

(d) The overrepresentation of convicted young persons with disabilities in the youth justice system, especially male youth from Aboriginal and Torres Strait Islander communities;

(e) Ongoing use of substituted decision-making to assist persons with disabilities “unable to navigate the legal system by themselves”;

(f) Absence of national data disaggregated by disability at all the stages of the criminal justice system, including data on the number of persons unfit to plead who are committed to custody in prison and other facilities.

**26. The Committee recommends that the State party, in close consultation with persons with disabilities, through their representative organizations, ensure effective access to justice for persons with disabilities, without any discrimination. It also recommends that the State party:**

(a) **Develop legislation in all states on the equal participation of persons with disabilities in the jury system;**

(b) **Develop nationally consistent disability justice plans across governments to ensure that persons with disabilities, particularly those whose reasonable and procedural accommodations are not adequately met, are supported in accessing the same legal protections and redress as the rest of the community;**

(c) **Bring all state, territory and federal legislation, including criminal laws and policies, in compliance with the Convention to ensure due process guarantees for all persons with disabilities and ensure a review of the legal situation of persons whose equal recognition before the law is restricted and who have been declared unfit to stand trial;**

(d) **Address the overrepresentation of young Aboriginal and Torres Strait Islander persons in the juvenile justice system and implement the recommendations contained in *Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*;**

(e) **Eliminate substitute decision-making, provide gender and culture-specific individualized support, including psychosocial support, for persons with disabilities in the justice system, make information accessible and provide community-based sentencing options;**

(f) **Ensure that training modules on working with persons with disabilities and the Convention are incorporated into mandated training programmes for police officers, prison officers, lawyers, judicial officers, judges and court staff;**

(g) **Collect data disaggregated by disability, age, gender, location and ethnicity at all stages of the criminal justice system, including on the number of persons unfit to plead who are committed to custody in prison and other facilities.**

#### **Liberty and security of the person (art. 14)**

27. The Committee is seriously concerned about:

(a) Legislative frameworks, policies and practices that result in the arbitrary and indefinite detention and forced treatment of persons with disabilities, and that such frameworks, policies and practices disproportionately affect Aboriginal and Torres Strait Islander persons with disabilities and persons with intellectual or psychosocial disabilities;

(b) The ongoing practice of obliging persons with “cognitive and mental impairment” to undergo treatment, including through indefinite detention in psychiatric centres, despite the recommendations contained in the Senate Community Affairs References Committee 2016 report *Indefinite Detention of Persons with Cognitive and Psychiatric Impairment in Australia*;

(c) The commitment of persons with intellectual or psychosocial disabilities to custody, often indefinitely or for terms longer than those imposed in criminal convictions;

(d) The absence of data on the number of persons found not guilty due to “cognitive or mental health impairment” indefinitely detained and the number of such persons detained on an annual basis;

(e) The practice of retaining and restraining children with disabilities in adult settings.

28. **The Committee, recalling its guidelines on the right to liberty and security of persons with disabilities (A/72/55, annex), urges the State party to:**

(a) **Repeal any law or policy and cease any practice or custom that enables the deprivation of liberty on the basis of impairment and that enables forced medical interventions on persons with disabilities, particularly Aboriginal and Torres Strait Islander persons with disabilities;**

(b) **Implement the recommendations contained in the Senate Community Affairs References Committee 2016 report *Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia*;**

(c) **Stop committing persons with disabilities to custody and for indefinite terms or for terms longer than those imposed in criminal convictions;**

(d) **Collect data on the number of persons indefinitely detained and on the number of such persons detained on an annual basis, disaggregated by the nature of the offence, the length of the detention, disability, Aboriginal and other origin, sex, age and jurisdiction, with the aim of reviewing their detention;**

(e) **End the practice of detaining and restraining children with disabilities in any setting.**

**Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)**

29. The Committee is seriously concerned about:

(a) Legislation, policies and practices that permit the use of psychotropic medications, physical restraints and seclusion under the guise of “behaviour modification” and restrictive practices against persons with disabilities, including children, in any setting, including in justice, education, health, psychosocial and aged care facilities;

(b) The reported abuse of young Aboriginal and Torres Strait Islander persons with disabilities by fellow prisoners and prison staff, the use of prolonged solitary confinement, particularly of persons with intellectual or psychosocial disabilities, and the lack of safe and accessible channels for making complaints;

(c) The lack of engagement with persons with disabilities, through their representative organizations, regarding the designation and establishment of a disability-inclusive national preventive mechanism.

30. **The Committee urges the State party to:**

(a) **Establish a nationally consistent legislative and administrative framework for the protection of all persons with disabilities, including children, from the use of psychotropic medications, physical restraints and seclusion under the guise of “behaviour modification” and the elimination of restrictive practices, including corporal punishment, in all settings, including the home;**

(b) **Introduce policies and measures to protect persons with disabilities, including young Aboriginal and Torres Strait Islander persons with disabilities and persons with intellectual or psychosocial disabilities, from abuse by fellow prisoners and prison staff and ensure that persons with disabilities cannot be held in solitary confinement;**

(c) **Ensure that organizations of persons with disabilities can effectively engage in the establishment and work of the national preventive mechanism.**

**Freedom from exploitation, violence and abuse (art. 16)**

31. The Committee is concerned about:



- (a) The lack of additional oversight, complaint and redress mechanisms needed for persons with disabilities who are not eligible for the National Disability Insurance Scheme, older persons with disabilities and, particularly, women with disabilities;
- (b) The lack of resources and redress mechanisms available to the Royal Commission into Violence, Abuse, Neglect and Exploitation of Persons with Disabilities;
- (c) The non-implementation of the recommendations contained in the report of the Australian Human Rights Commission *A Future without Violence*;
- (d) The lack of an explicit reference to women and girls with disabilities in the National Plan to Reduce Violence against Women and their Children 2010–2022;
- (e) Insufficient expertise and structural barriers within services dealing with domestic violence, sexual assault and related crises to adequately support women and girls with disabilities;
- (f) The fact that the instruments to collect data on violence against women and girls with disabilities are limited in both number and scope.

**32. The Committee recommends that the State party:**

- (a) **Establish a national accessible oversight, complaint and redress mechanism for persons with disabilities who have experienced violence, abuse, exploitation and neglect in all settings, including all those not eligible for the National Disability Insurance Scheme and, particularly, older women with disabilities;**
- (b) **Ensure adequate resources and a redress mechanism for the Royal Commission into Violence, Abuse, Neglect and Exploitation of Persons with Disabilities;**
- (c) **Implement the recommendations contained in the report of the Australian Human Rights Commission *A Future without Violence*;**
- (d) **Ensure the inclusion of women and girls with disabilities in the National Plan to Reduce Violence against Women and their Children 2010–2022, beyond project-based programmes and activities;**
- (e) **Ensure gender- and age-sensitive services to address gender-based violence that are inclusive and accessible to all women and girls with disabilities and ensure that staff are adequately trained;**
- (f) **Address the methodological restrictions in data-collection instruments used to capture data on violence against women and girls with disabilities.**

**Protecting the integrity of the person (art. 17)**

33. The Committee is seriously concerned about:

- (a) The ongoing practice of forced sterilization, forced abortion and forced contraception among persons with disabilities, particularly women and girls, which remains legal;
- (b) The unregulated use of involuntary surgery on infants and children born with variations in sex characteristics and of other intrusive and irreversible medical interventions without the free and informed consent of those undergoing such interventions or without evidence of the need to carry them out.

**34. The Committee urges the State party to:**

- (a) **Review and amend laws, including the section of the Family Law Rules 2004 relating to applications for medical procedures, in line with the Convention and adopt uniform legislation prohibiting, in the absence of free and informed consent, the sterilization of adults and children, the administration of contraception and the imposition of abortion procedures on women and girls with disabilities;**
- (b) **Adopt clear legislative provisions that explicitly prohibit the performance of unnecessary, invasive and irreversible medical interventions,**

**including surgical, hormonal or other medical procedures on intersex children before they reach the legal age of consent; also provide adequate counselling and support for the families of intersex children and redress to intersex persons having undergone such medical procedures;**

**(c) Prohibit the use of non-consensual electroconvulsive therapy on the basis of any form of impairment.**

**Liberty of movement and nationality (art. 18)**

35. The Committee is concerned about:

(a) Migration and asylum legislation, such as the Migration Act 1958 and the health requirement in the Migration Regulations 1994, which allows for discrimination against persons with disabilities in asylum and migration procedures;

(b) The Disability Discrimination Act 1992 providing an exemption to certain provisions within the Migration Act 1958, which results in the exclusion of persons with disabilities;

(c) The 10-year qualifying period for migrants with a non-permanent visa to access the Age Support Pension and the Disability Support Pension;

(d) The transfer of refugees and asylum seekers with disabilities to Nauru, Papua New Guinea and other “regional processing countries”.

36. **The Committee recommends that the State party:**

**(a) Review and amend its migration laws and policies to ensure that persons with disabilities do not face discrimination in any of the formalities and procedures relating to migration and asylum and, especially, remove the exemption in the Disability Discrimination Act 1992 to certain provisions of the Migration Act 1958;**

**(b) Remove the 10-year qualifying period for migrants to access the Age Support Pension and the Disability Support Pension;**

**(c) Cease the transfer of refugees and asylum seekers, particularly persons with disabilities, to Nauru, Papua New Guinea and other “regional processing countries”, as requested by the Office of the United Nations High Commissioner for Refugees in a factsheet on the protection of so-called “legacy caseload” asylum seekers, and establish a minimum standard of health care and support for persons with disabilities held in immigration detention.**

**Living independently and being included in the community (art. 19)**

37. The Committee is concerned about:

(a) The fact that the Specialist Disability Accommodation framework facilitates and encourages the establishment of residential institutions and will result in persons with disabilities having to live in particular living arrangements in order to access National Disability Insurance Scheme support;

(b) The lack of appropriate, affordable and accessible social housing, which severely limits the capacity of persons with disabilities to choose their place of residence;

(c) The fact that the Younger People in Residential Aged Care action plan only outlines ways to reduce the number of persons under 65 years of age, including persons with disabilities, living in aged care facilities, but does not end the practice.

38. **The Committee recommends that the State party:**

**(a) Develop a national framework aimed at closing all disability-specific residential institutions and preventing transinstitutionalization, including by addressing how persons with disabilities not eligible for the National Disability Insurance Scheme can be supported to transition from living in an institution to living independently in the community;**

(b) **Increase the range, affordability and accessibility of public and social housing for persons with disabilities, including by implementing a quota for accessible social housing and by developing regulations and standards to guarantee the progressive application of universal design principles in accessible housing;**

(c) **Revise the Younger People in Residential Aged Care action plan to ensure that by 2025 no person under 65 years of age enters or lives in residential aged care.**

#### **Personal mobility (art. 20)**

39. The Committee is concerned about the lack of locally available solutions to address, enhance and promote the use of mobility aids and equipment among persons with disabilities, especially within Aboriginal and Torres Strait Islander communities and in remote areas.

40. **The Committee recommends that the State party, in partnership with Aboriginal and Torres Strait Islander persons with disabilities, through their representative organizations and in their communities, develop locally relevant solutions to address the underlying structural obstacles that can preclude the use of aids and equipment within Aboriginal and Torres Strait Islander communities and in remote areas.**

#### **Freedom of expression and opinion, and access to information (art. 21)**

41. The Committee is concerned that, besides a provision under the Disability Discrimination Act, there are no legally binding information and communications standards that require information to be fully accessible.

42. **The Committee recommends that the State party develop a plain language law requiring government agencies to use clear communication and that it also develop legally binding information and communications standards so that information, particularly all information about significant changes to laws, policies, systems and obligations, is provided in accessible modes, means and formats, including Braille, Easy Read and sign language (Auslan), and that communication supports are routinely available. It also recommends that the State party promote and support the use of sign language (Auslan) and take steps to ensure the availability of qualified sign language interpreters.**

#### **Respect for home and the family (art. 23)**

43. The Committee is concerned about:

(a) The fact that parents with disabilities are more likely than other parents to have their child removed from their care, often on the basis of disability, and about the lack of support provided to parents with disabilities in the exercise of parental responsibilities;

(b) The reported discrimination suffered, in particular by women with disabilities and by lesbian, gay, bisexual, transgender, intersex and queer persons with disabilities, in accessing assisted reproductive technologies.

44. **The Committee recommends that the State party:**

(a) **Ensure that no child is separated from his or her parents because of the disability of either the child or one or both of the parents;**

(b) **Adopt comprehensive and gender- and culturally-specific parenting and family support measures for parents with disabilities;**

(c) **Ensure that women with disabilities and lesbian, gay, bisexual, transgender, intersex and queer persons with disabilities have equal access to assisted reproductive technologies.**

#### **Education (art. 24)**

45. The Committee is concerned about:

(a) The lack of implementation of many of the recommendations of the 2015 review of the Disability Standards for Education 2005;

(b) The significant increase in students with disabilities experiencing a segregated education, seclusion, isolation and a lack of age-appropriate settings, and about insufficient funding for inclusive education in mainstream schools;

(c) The fact that there is no national disaggregated data on students with disabilities, including on the use of restrictive practices and cases of bullying.

**46. In line with the Committee's general comment No. 4 (2016) on the right to inclusive education and targets 4.5 and 4.a of the Sustainable Development Goals, the Committee reiterates its previous recommendations on education (CRPD/C/AUS/CO/1, para. 46) and recommends that the State party:**

(a) **Conduct a robust review, in consultation with organizations of persons with disabilities, of the Disability Standards for Education 2005, implement the recommendations arising from that review and develop a national action plan for inclusive education;**

(b) **Address the increasing rate of segregation, seclusion and isolation and the lack of age-appropriate settings for students with disabilities at all levels, in particular Aboriginal and Torres Strait Islander students, and redirect adequate resources to a nationwide inclusive education system for all students;**

(c) **Expand the collection of data on the number of students with disabilities who do not qualify for an adjustment and who are unable to enrol in local mainstream schools, as well as data on educational attainment, on completion, suspension and expulsion rates, on the use of restrictive practices and on cases of bullying.**

#### **Health (art. 25)**

47. The Committee is concerned about the fact that, compared to the general population, persons with disabilities, in particular persons with disabilities living in remote areas, Aboriginal and Torres Strait Islander persons with disabilities, persons with intellectual or psychosocial disabilities, persons with disabilities living in institutions and children and women with disabilities, are in significantly poorer health and have less access to information and to adequate, affordable and accessible health services and equipment.

**48. The Committee recommends that the State party adhere to article 25 of the Convention in its efforts to achieve targets 3.7 and 3.8 of the Sustainable Development Goals and ensure that:**

(a) **All persons with disabilities, in particular persons with disabilities living in remote areas, Aboriginal and Torres Strait Islander persons with disabilities, persons with intellectual or psychosocial disabilities, persons with disabilities living in institutions and women and children with disabilities, have access to information on an equal basis with others and to affordable, accessible, quality and culturally sensitive medical equipment and health services, including sexual, reproductive and mental health services;**

(b) **All health-care services are based on a non-discriminatory, human rights model of disability and that any medical treatment is provided with the free and informed consent of the person concerned prior to any medical treatment;**

(c) **Health-care practitioners receive training on the human rights model of disability to enhance their capacity to provide accessible, quality health care to persons with disabilities.**

#### **Work and employment (art. 27)**

49. The Committee is concerned about:

(a) The narrow and incomplete scope of the review of the National Employment Framework for People with Disability and about the lack of clear measures to reform the Disability Employment Services;

(b) The ongoing segregation of persons with disabilities employed through Australian Disability Enterprises and the fact that such persons receive a sub-minimum wage;

(c) The low labour force participation of persons with disabilities, particularly women with disabilities, Aboriginal and Torres Strait Islander persons with disabilities, persons with disabilities from culturally and linguistically diverse backgrounds and refugee and asylum-seeking persons with disabilities.

50. **The Committee recommends that the State party:**

(a) **Take measures to reform the Disability Employment Services and develop a national disability employment strategy that incorporates the recommendations from the “Willing to work” inquiry and contains targeted gender-sensitive measures;**

(b) **Undertake a comprehensive review of Australian Disability Enterprises to ensure that they adhere to article 27 of the Convention and provide services to enable persons with disabilities to transition from sheltered employment into open, inclusive and accessible employment, ensuring equal remuneration for work of equal value;**

(c) **Implement measures to address systemic and structural barriers experienced by persons with disabilities, particularly by women with disabilities, Aboriginal and Torres Strait Islander persons with disabilities, persons with disabilities from culturally and linguistically diverse backgrounds and refugee and asylum-seeking persons with disabilities.**

**Adequate standard of living and social protection (art. 28)**

51. The Committee is concerned about:

(a) The fact that a significant proportion of persons with disabilities are living either near or below the poverty line;

(b) The existence of eligibility restrictions to the Disability Support Pension and the inadequacy of income support payments such as the Newstart Allowance to persons with disabilities;

(c) The limited consideration of persons with disabilities, particularly Aboriginal and Torres Strait Islander persons with disabilities, in poverty and homelessness reduction strategies, including the National Affordable Housing Agreement and the National Partnership Agreement on Homelessness.

52. **The Committee recommends that the State party:**

(a) **Develop a national poverty reduction plan that is inclusive and accessible to all persons with disabilities and prioritize the realization of the right to an adequate standard of living and social protection for Aboriginal and Torres Strait Islander persons with disabilities;**

(b) **End the eligibility restrictions on the Disability Support Pension, increase the rate of Newstart Allowance unemployment payments and other income support payments to ensure that persons with disabilities have access to an adequate standard of living;**

(c) **Ensure that persons with disabilities are included as a priority cohort in the implementation of poverty reduction and public housing programmes, including the National Affordable Housing Agreement and the National Partnership Agreement on Homelessness.**

**Participation in political and public life (art. 29)**

53. The Committee is concerned that electoral laws provide that persons of “unsound mind” are not entitled to have their names on the electoral roll or to vote in elections and may be removed from the electoral roll following someone’s objection. It is also concerned

that the electoral process is not fully accessible and that it does not guarantee secret voting rights to persons with disabilities. The Committee is further concerned about the lack of information on the representation of women with disabilities, particularly Aboriginal and Torres Strait Islander women with disabilities, in political and public life.

54. **The Committee reiterates its previous recommendation on ensuring the right of persons with disabilities to vote in elections on an equal basis with others (CRPD/C/AUS/CO/1, para. 52). It recommends that the State party develop measures, with adequate resources, to ensure the full accessibility of electoral processes and guaranteeing secret voting rights. It also recommends that the State party implement the recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/AUS/CO/8, para. 36) to ensure representation and accelerate the participation of women with disabilities, particularly Aboriginal and Torres Strait Islander women with disabilities, in political and public life at all levels.**

#### **Participation in cultural life, recreation, leisure and sport (art. 30)**

55. The Committee is concerned about the lack of specific measures put in place to effectively implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print-Disabled and the insufficient measures taken to promote the participation of persons with disabilities, particularly children with disabilities, in cultural life, recreation, leisure and sport on an equal basis with others.

56. **The Committee recommends that the State party take all appropriate measures to ensure the effective implementation of the Marrakesh Treaty through close consultation with representative organizations of persons with disabilities. It also recommends that the State party increase its efforts to ensure that persons with disabilities, including children with disabilities, enjoy their right to participate in cultural life, recreation, leisure and sport on an equal basis with others.**

### **C. Specific obligations (arts. 31–33)**

#### **Statistics and data collection (art. 31)**

57. The Committee is concerned about the lack of nationally consistent measures for the collection and public reporting of disaggregated data on the full range of obligations contained in the Convention.

58. **The Committee recommends that the State party, in conjunction with the Office of the National Data Commissioner, develop a national disability data framework to ensure appropriate, nationally consistent measures for the collection and public reporting of disaggregated data on the full range of obligations contained in the Convention, especially with regard to women, children and Aboriginal and Torres Strait Islander persons with disabilities.**

#### **International cooperation (art. 32)**

59. The Committee is concerned about the absence of appropriate mechanisms to measure the impact of development cooperation efforts on persons with disabilities and the lack of information about the effective involvement of organizations of persons with disabilities as development cooperation partners.

60. **The Committee recommends that the State party:**

(a) **Adopt measures to ensure the full and effective participation of persons with disabilities, through their representative organizations, in the design, implementation, monitoring and evaluation of programmes and projects developed in the framework of international cooperation efforts, including efforts such as the Development for All 2015–2020 strategy, in line with the Committee’s general comment No. 7;**

(b) **Adopt a development policy in line with the Convention and incorporate the policy's principles and values into all of the State party's development cooperation policies and programmes, ensuring that the policy has measurable and tangible targets and indicators, and ensure that international cooperation efforts reach persons with disabilities both by targeting them and by mainstreaming their concerns;**

(c) **Mainstream disability rights and requirements in the national implementation of the 2030 Agenda for Sustainable Development and in monitoring progress in implementation.**

#### **National implementation and monitoring (art. 33)**

61. The Committee is concerned about:

(a) The lack of sufficient resources allocated to effectively implement the National Disability Strategy;

(b) The existing legal framework limiting the scope and power of the Australian Human Rights Commission to perform the task of effectively and independently monitoring the implementation of the Convention;

(c) The lack of an effective monitoring mechanism under the National Disability Strategy, which is an overarching policy framework;

(d) The lack of a formal mechanism and sustainable funding for the full and effective participation of persons with disabilities, through their representative organizations, in all aspects of the implementation and monitoring of the Convention.

62. **The Committee reiterates its previous recommendation on national implementation and monitoring (CRPD/C/AUS/CO/1, para. 58) and recommends that the State party:**

(a) **Ensure that sufficient resources are available for the effective implementation of the National Disability Strategy;**

(b) **Revise existing laws or enact new laws, including a national comprehensive human rights law, to expand and strengthen the scope and power of the Australian Human Rights Commission to perform the task of independently monitoring the implementation of the Convention, in line with article 33 (2) of the Convention and the Committee's general comment No. 7;**

(c) **Establish a formal monitoring mechanism under the National Disability Strategy that includes the Office of Disability Strategy, as recommended by the Senate Standing Committee on Community Affairs in 2017, ensuring effective coordination between the federal and state levels;**

(d) **Establish a formal mechanism and ensure sustainable and adequate funding for the meaningful engagement of persons with disabilities and their representative organizations in the implementation and monitoring of the Convention.**

## **IV. Follow-up**

### **Dissemination of information**

63. The Committee emphasizes the importance of all the recommendations contained in the present concluding observations. With regard to urgent measures that must be taken, the Committee would like to draw the State party's attention to the recommendations contained in paragraph 6 (b), on reviewing and withdrawing the interpretative declarations on articles 12, 17 and 18 of the Convention, and paragraph 28, on liberty and security of the person.

64. The Committee requests the State party to implement the recommendations contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, the judiciary and

members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities, the private sector and the media, using modern social communication strategies.

65. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

66. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.

#### Next periodic report

67. The Committee requests the State party to submit its combined fourth and fifth periodic reports by 17 August 2026 and to include in them information on the implementation of the recommendations made in the present concluding observations. The Committee also requests the State party to submit the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report of a State party. The replies of a State party to such a list of issues constitute its report.

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