



WOMEN  
WITH  
DISABILITIES  
AUSTRALIA  
(WWDA)

# **USING A HOLISTIC HUMAN RIGHTS FRAMEWORK TO ADVANCE THE RIGHTS OF WOMEN AND GIRLS WITH DISABILITY**

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## AWARDS

-  **Winner**  
National Human Rights Award 2001
-  **Winner**  
National Violence Prevention Award 1999
-  **Winner**  
Tasmanian Women's Safety Award 2008
-  **Nominee**  
French Republic's Human Rights Prize 2003
-  **Nominee**  
UN Millennium Peace Prize for Women 2000

# 1 ABOUT WOMEN WITH DISABILITIES AUSTRALIA (WWDA)

Women With Disabilities Australia (WWDA) is the award winning, national Disabled People's Organisation (DPO)<sup>1</sup> for women and girls with all types of disability in Australia. WWDA operates as a transnational human rights organisation and is run by women with disability, *for* women with disability. In the past two decades since its establishment, WWDA has grown from a small group of disabled women concerned primarily with building individual confidence and self-esteem, to an internationally acclaimed human rights organisation enabling and representing the collective interests of women and girls with disability and promoting and advancing their rights and freedoms.

WWDA's work is grounded in a human rights based framework which links gender and disability issues to a full range of civil, political, economic, social and cultural rights. The human rights based approach to our work recognises and respects that the international human rights normative framework,

including the international human rights treaties and their optional protocols, and the General Comments and recommendations adopted by the bodies monitoring their implementation, provide the framework to illustrate the obligations and responsibilities of governments and other duty-bearers in relation to the human rights of women and girls with disability.

It is this holistic, comprehensive framework of rights protection and response that WWDA works from and within, to promote and advance the human rights of women and girls with disability. Importantly, utilising this holistic human rights framework in all aspects of our work enables us to demand accountability and due diligence from Governments and other duty bearers in relation to recognising and addressing the violations of human rights and fundamental freedoms experienced by women and girls with disability.

## 2 A BRIEF OVERVIEW OF THE STATUS OF WOMEN WITH DISABILITY IN AUSTRALIA

Over two-million women and girls with disability live in Australia (approximately 20% of the population of women), including approximately 100,000 girls with disability aged 0-14 and two-million women with disability aged 15 and older.<sup>2</sup>

International human rights law now recognises and upholds people with disability as equal and active subjects of their rights - as opposed to objects or burdens to be cared for or cured.<sup>3</sup> The prohibition of discrimination and the promotion of equality are fundamental human rights principles - enshrined in both international human rights law and in domestic legislative and policy and frameworks to advance the rights of people with disability, and to end all forms of discrimination against women. However, women and girls with disability in Australia - and arguably the world over - have failed to be afforded, or benefit from, these provisions in international human rights law and domestic frameworks. Instead, they continue to be positioned as one of the most excluded and marginalised groups of women, subject to widespread discrimination, systemic prejudice, paternalistic and ableist<sup>4</sup> attitudes that denigrate, devalue, oppress, limit and deny their potential and their rights and freedoms.<sup>5</sup> They are often not afforded dignity, recognition, respect, agency and/or autonomy.<sup>6</sup>

Although women and girls with disability in Australia experience pervasive discrimination and violations of their rights and freedoms in all areas, the right to live free from all forms of violence and abuse is consistently identified by them as the most urgent and unaddressed human rights issue they face.<sup>7</sup> Compared to their peers, women with disability experience significantly higher levels of all forms of violence more intensely and frequently and are subjected to such violence by a greater number of perpetrators.<sup>8</sup> Their experiences of violence last over

a longer period of time, they experience more severe injuries as a result from the violence<sup>9</sup> and they have considerably fewer pathways to safety.<sup>10</sup> The lack of knowledge and understanding of the extent, nature, incidence, and impact of violence against women and girls with disability<sup>11</sup> at the individual, community, service provider, and criminal justice system levels, along with the violence prevention public policy environment,<sup>12</sup> contributes to the epidemic that is violence against women and girls with disability in Australia.

Women with disability are more likely than men with disability and other women to face medical interventions to control their fertility, and experience significantly more restrictions, negative treatment, and particularly egregious violations of their sexual and reproductive rights. They experience, and are more exposed to practices which qualify as torture or inhuman or degrading treatment,<sup>13</sup> including state sanctioned practices such as forced sterilisation, forced abortion, and forced contraception.<sup>14</sup> They are more likely to be isolated and segregated within the range of settings in which they reside, are incarcerated, or receive support services;<sup>15</sup> are subjected to multiple forms and varying degrees of 'deprivation of liberty' and are more likely to be subjected to unregulated or under-regulated restrictive interventions and practices,<sup>16</sup> often imposed as a means of coercion, discipline, convenience, or retaliation by others.<sup>17</sup> Indigenous women with disability are at risk of being detained indefinitely, often without conviction, in prisons and in forensic psychiatric units throughout Australia enduring periods of indefinite detention that in some cases exceed years.<sup>18</sup>

Women with disability in Australia have less power and fewer resources than other women and men. They are much more likely to live in poverty than people in the general population; have to work

harder to secure their livelihoods; have less control over income and assets, and have little economic security. They are much more likely to be unemployed than other women and men with disability; less likely to be in the paid workforce;<sup>19</sup> have lower incomes from employment; are more likely to experience gender and disability biases in labour markets; and are more concentrated than other women and men in precarious, informal, subsistence and vulnerable employment.<sup>20</sup>

Compared to men with disability and other women, disabled women experience substantial housing vulnerability, are more likely to experience and face homelessness, and are much more likely to be affected by the lack of affordable housing.<sup>21</sup> They are more likely to be sole parents, to be living on their own, or in their parental family than disabled men,<sup>22</sup> are at higher risk of separation/divorce than men with disability and often experience difficulty maintaining custody of their children post-separation/divorce.<sup>23</sup> Mothers with disability are up to ten times more likely than other parents to have a child removed from their care by authorities on the basis of the mother's disability, rather than any evidence of child neglect.<sup>24</sup>

Like many women, disabled women share the burden of responsibility for unpaid work in the private and social spheres, including for example, cooking, cleaning, and caring for children and relatives. Women with disability are much less likely to receive service support than other women and men with disability, across all service types and sectors.<sup>25</sup>

Women and girls with disability continue to be denied the right to participate in, and remain largely excluded from, decision-making, participation and advocacy processes, about issues that affect their lives and those of their families, communities and nations. Too often, they have their views ignored or disregarded in favour of 'experts', 'professionals', parents, guardians, and carers, as well as representatives of organisations *not* controlled and constituted by women with disability themselves.<sup>26</sup>

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

### 3 HOW WWDA UTILISES A HOLISTIC HUMAN RIGHTS FRAMEWORK TO ADVANCE THE RIGHTS OF WOMEN WITH DISABILITY

In the decade since the United Nations General Assembly adopted the *Convention on the Rights of Persons with Disabilities* (CRPD), WWDA has made significant inroads to advancing the rights and freedoms of women and girls with disability. Utilising a holistic human rights framework in all aspects of our work has enabled us to conduct groundbreaking and critically acclaimed programs which address a wide range of human rights issues for women and girls with disability. WWDA provides rigorous and evidence based input into legislative and policy development at state/territory, national and international levels, which is always informed by the voices, experiences, knowledge and expertise of women and girls with disability. WWDA's work at all levels continually illustrates that women and girls with disability are best positioned to identify and determine their own rights, needs, will and preferences and to make decisions concerning their circumstances and conditions, and those of their families, communities and nations.

#### USING THE FULL RANGE OF INTERNATIONAL HUMAN RIGHTS TREATIES TO WHICH AUSTRALIA IS A PARTY

Australia is a founding member of the United Nations (UN) and has been an active participant in UN institutions for more than 65 years. Australia is a signatory to seven core international human rights treaties,<sup>27</sup> all of which create obligations to promote equality of, and denounce discrimination against people with disability and women. As a party to these seven international human rights treaties, Australia has chosen to be bound by the treaty requirements, and has an international legal obligation to implement the treaty provisions through its laws and policies. WWDA's work recognises and reflects that advancing the rights of women and girls with disability is not just an obligation in relation to the *Convention on the Rights of Persons with Disabilities*

(CRPD), or the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW). It is equally a key obligation relating to civil and political rights; economic, social and cultural rights; child rights; as well as rights to be free from torture (and other cruel, inhuman or degrading treatment or punishment); and racial discrimination.

In this context, WWDA's work utilises and is framed by, the seven international human rights treaties to which Australia is a party, including their optional protocols, General Comments adopted by the bodies monitoring their implementation, and the Concluding Observations and commentary provided to States Parties by the treaty monitoring bodies. In this way, WWDA's work demonstrates that implementation of these treaties is not mutually exclusive, and that they must be viewed and implemented as complementary mechanisms through which to create a holistic framework of rights protection and response for all women and girls with disability.<sup>28</sup>

In the context of forced sterilisation and other egregious forms of violence perpetrated against women and girls with disability, WWDA makes extensive use of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), which entered into force in Australia in 1989. This has been a particularly useful strategy for WWDA's advocacy efforts on these issues, because CAT strictly prohibits torture of any kind, with torture defined as any act, physical or mental, whether at the instigation, consent or acquiescence of a public official, where severe pain or suffering was intentionally inflicted for a range of purposes including discrimination. Such acts are also prohibited if they meet the slightly lower standard of "cruel, inhuman or degrading" treatment or punishment.<sup>29</sup> The mandate has stated, that torture, as the most serious violation of the human right to personal integrity and dignity,

presupposes a situation of powerlessness, whereby the victim is under the total control of another person. Deprivation of legal capacity, when a person's exercise of decision-making is taken away and given to others, is one such circumstance. The mandate has recognised that medical treatments of an intrusive and irreversible nature, when lacking a therapeutic purpose, may constitute torture or ill treatment when enforced or administered without the prior, free and informed consent of the person concerned.<sup>30</sup>

By participating in the work of the CAT Committee and the work of the UN Special Rapporteur on Torture (including for example, through the provision of Shadow Reports, WWDA publications, letters, as well as being a member of the NGO delegation to the CAT Review of Australia), WWDA has been able to engage with the mandate to further the application and implementation of the treaty to better address contraventions of the treaty as it applies to women and girls with disability. For example, the CAT Committee last reviewed Australia's compliance with the Convention in 2014 at its 53rd session.<sup>31</sup> As a member of the NGO delegation to the Review, WWDA worked actively with the Committee members to lobby and advocate for the CAT Concluding Observations to include strong recommendations on the issue of violence against women with disability and specifically, the issue of forced sterilisation. WWDA developed Fact Sheets for the Committee members, developed Draft Concluding Observations, provided more information on request from the Committee, provided detailed case studies and evidence-based research, met directly with individual Committee members, and presented formally to the CAT Committee with the Australian NGO delegation.

In its Concluding Observations to Australia following the Review in 2014,<sup>32</sup> the Committee was unequivocal in its determination of forced sterilisation as a form of torture, and expressly re-iterated the recommendation of several other treaty monitoring bodies that Australia “enact uniform national legislation prohibiting, except where there is a serious threat to life or health, the use of sterilisation without

*the prior, free and informed consent of the person concerned, and that it ensure that, once adopted, this legislation is effectively applied”.*

A further principal area of concern in relation to Australia's compliance with the CAT, related to violence against women, particularly violence against women with disability, and indigenous women. The Committee urged the Australian Government to “redouble its efforts” to address violence against women, particularly women with disability, and indigenous women, through a number of detailed measures.<sup>33</sup>

Concluding Observations and recommendations from the UN treaty body monitoring Committees, constitute an authoritative guide for legislative, policy, program and service development, and are an important accountability mechanism. States Parties are expected to implement the recommendations, in order to fulfil their obligations under the particular human rights treaty and also to accelerate its implementation. It is recognised that a States Parties domestic laws and policies to implement a treaty's provisions “should not depart from the views and recommendations of United Nations committees and officials without sound and compelling policy reasons”.<sup>34</sup>

The Concluding Observations from the CAT Review of Australia in 2014, including specific recommendations relating to violence against women with disability, and forced sterilisation, are therefore critically important to WWDA in our ongoing advocacy work on these two areas. We are able to use these recommendations to continue to advocate with our own Government for urgent law and policy reform to protect women with disability from violations of their human rights, particularly their right to be free from torture and ill-treatment.

## USING TREATY BODY GENERAL COMMENTS

The treaty monitoring bodies publish their interpretation of the content of human rights provisions, known as General Comments on thematic issues or methods of work. These cover a wide range of subjects, from the comprehensive interpretation of substantive provisions (such as the right to life or the right to adequate food), to wider, cross-cutting issues (such as the rights of people with disability, violence against women, sexual and reproductive rights), to general guidance on the information that should be submitted in State reports relating to specific articles of the treaties.<sup>35</sup>

General Comments form a vitally important component of a States treaty obligations and compliance. Although strictly speaking, General Comments are not legally binding, they have a highly authoritative character with legal basis.<sup>36</sup> Importantly, General Comments provide orientation for the practical implementation of human rights and form a set of criteria for evaluating the progress of states in their implementation of these rights. General Comments assist non-government stakeholders as well as Governments in understanding treaty provisions and in strengthening national advocacy.

WWDA regularly uses the relevant General Comments developed under the seven core international human rights treaties to which Australia is a party. For example, in late 2016, WWDA developed a series of comprehensive *WWDA Position Statements* on several key human rights issues identified and prioritised by women and girls with disability – including: the right to decision-making; the right to participation; the right to freedom from all forms of violence; sexual and reproductive rights; and the right to work and to economic security. Each of the Position Statements include: WWDA's position on the issue; the evidence base; Australia's international human rights obligations relating to the issue; Australia's compliance with its human rights obligations relating to the issue; as well as a set of recommendations as

to how Australia can advance the rights of women and girls with disability in relation to the issue. WWDA made extensive use of the relevant General Comments to articulate in more depth and detail, Australia's obligations under the international human rights treaties to which Australia is a party.

WWDA has already started to utilise in practice, the recently released CRPD *General Comment 3 on Article 6 [Women with Disabilities]*.<sup>37</sup> WWDA has included relevant elements of the General Comment in our WWDA Position Statements, which will be formally published and disseminated worldwide in late October 2016. Additionally, WWDA is using, and will continue to use the General Comment in our lobbying and advocacy work with Government – particularly in relation to the priority issues identified by women with disability in Australia: the right to decision-making; the right to participation; the right to freedom from all forms of violence; sexual and reproductive rights; and the right to work and to economic security.

## SHADOW REPORTING

Shadow reports are an important method and tool for DPO's and NGOs to supplement or present alternative information to the periodic government reports that State parties are required to submit under the treaties to which they are a party. By submitting a shadow report to a UN treaty body committee, DPO's and NGOs can highlight issues not raised by their governments or point out where the government may be misleading the committee from the real situation.

WWDA contributes formal stand alone Shadow Reports in our own right – particularly to the CRPD Committee, the CEDAW Committee and the CAT Committee, but also contributes extensively to the development of formal Australian NGO/Civil Society Shadow Reports. For example, a national CRPD Civil Society Project Group was established to develop the inaugural Australian NGO/Civil Society Shadow Report to the CRPD for Australia's Review in 2013. This Project Group was made up of DPO's, legal centres,



disability advocacy organisations, and human rights organisations. The Project Group co-ordinated the development of the Shadow Report which involved extensive consultations with people with disability, as well as compilation of evidence from government and community initiated inquiries and various reports and submissions produced by civil society involved in the protection and promotion of human rights for people with disability.<sup>38</sup>

WWDA also works as an active member of national NGO/Civil Society Coalitions established specifically for the purpose of developing Shadow Reports to supplement the Australian Government periodic reports to the relevant treaty-monitoring bodies. As an active member of these coalitions, WWDA often assists with writing specific information on women and girls with disability, as well as developing Fact Sheets and lobbying materials for use by the NGO delegation attending the treaty review and dialogue process.

For example, as part of the national NGO/Civil Society Coalition to develop the Shadow Report for the UN Human Rights Committee in relation to Australia's compliance with the *International Covenant on Civil and Political Rights* (ICCPR), WWDA was instrumental in developing specific questions for the Human Rights Committee to request the Australian Government address in its formal periodic report.

In March 2016, Australia submitted its Sixth Periodic Report to the United Nations Human Rights Committee on Australia's compliance with the ICCPR. It was required to submit its response to the *List of Issues Prior to Reporting* (LOIPR),<sup>39</sup> (adopted by the Human Rights Committee at its 106th session) and is scheduled to appear for review by the Human Rights Committee in July 2017. Under the heading of 'Violence Against Women', the LOIPR for Australia contains specific questions relating to women and girls with disability, to which the Australian Government is expected to respond.<sup>40</sup>

Specifically, the Human Rights Committee, in its LOIPR, states:

*Please provide information on whether sterilisation of women and girls, including those with disabilities, without their informed and free consent, continues to be practiced, and on steps taken to adopt legislation prohibiting such sterilisations.*

*In the light of the Committee's previous recommendations<sup>41</sup> please provide updated information on the legislative, administrative and other measures taken towards the elimination of all forms of violence against women, especially perpetrated against indigenous women and women with disabilities. Additionally, please provide updated information on the availability and adequacy of legal and social services for women victims of domestic violence and sexual assault, especially in rural and remote areas.*

Although Shadow Reporting to a treaty monitoring body technically occurs only ever few years (depending on the particular treaty) WWDA is of the view that all our work is, in one way or another, a form of Shadow Reporting. What this means in practice, is that WWDA routinely and regularly engages with the UN treaty body monitoring Committees by providing them with our reports, research, articles, case studies, and so on. This has proven to be an important and worthwhile strategy, and WWDA has received feedback from the relevant Committees specifically acknowledging that our work assists them in carrying out their own work.

## NGO DELEGATIONS TO UN TREATY BODY COMPLIANCE REVIEWS

Like many other DPO's and networks of women with disability, WWDA always finds it incredibly difficult, and at times, impossible, to secure the funding required to enable WWDA to be represented at the formal UN treaty body compliance dialogue reviews of Australia – usually held in either Geneva or New York. Our international work and role has never been,

and still isn't, funded by the Australian Government, meaning we are forever trying to chase donations, sponsorship and one off grant funding to take our rightful place in the international human rights space. The small amount of operational funding we receive from the Australian Government does not enable a domestic travel budget, let alone an international travel budget, and of course, the additional costs related to necessary disability accommodations are rarely acknowledged by funding bodies.

However, over the years, WWDA has been able to attend and participate in some of the formal compliance reviews of Australia undertaken by the treaty monitoring bodies. In 2010, following acceptance by the CEDAW Committee of a stand alone WWDA Shadow Report, we attended the 46th session of CEDAW in New York for the review of Australia's compliance with the CEDAW Convention. As we were not in a position to fund our own representation to the 46th session, we successfully applied to the Australian Government for one of the two NGO positions available on the Australian Government delegation. Our participation at the 46th session had particular parameters and boundaries, because we were attending as an NGO member of the formal Australian Government delegation.

Despite the restrictions as a member of the Australian Government delegation, we were still able to speak directly to the CEDAW Committee about issues such as forced sterilisation, violence, lack of employment opportunities, lack of participation, representation and leadership, and other key issues of concern. Our presence and visibility at the 46th session, coupled with our strong advocacy and Shadow Report, resulted in very strong recommendations being made to Australia by the CEDAW Committee in respect of women and girls with disability.<sup>42</sup>

## WORKING WITH THE UN SPECIAL PROCEDURES

As part of WWDA's work to advance the rights of women and girls with disability, we have made, and

continue to make extensive use of the UN Special Procedures.<sup>43</sup> The UN Special Rapporteurs constitute part of the UN 'Special Procedures', appointed by the Human Rights Council. They serve in their personal capacities as independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective.

As with our approach to the treaty monitoring bodies, WWDA routinely and regularly engages with the UN Special Rapporteurs by providing them with our reports, research, articles, case studies, as well as participating in and contributing to, the work of the Special Rapporteurs.

For example, in 2011, we made use of the UN Special Procedures, and lodged a formal complaint with four of the United Nations Special Rapporteurs,<sup>44</sup> regarding the ongoing practice of forced sterilisation of girls and women with disability in Australia, and requesting urgent intervention from each of their offices simultaneously. The Centre for Reproductive Rights, based in New York, worked with us in a virtual capacity to provide support and help us formalise our complaint. Lodging a formal complaint to the Special Rapporteurs was a critically important step, because the Australian Government was compelled to formally respond to the complaint. Importantly, a key outcome from this complaint by WWDA was the establishment of the Australian Senate *'Inquiry into the involuntary or coerced sterilisation of people with disabilities in Australia'*,<sup>45</sup> conducted in 2012.

In 2012 when Ms Rashida Manjoo, the then *Special Rapporteur on Violence Against Women, its Causes and Consequences* visited Australia, we organised a *Roundtable of Women with Disability* to discuss with Ms Manjoo, the issue of all forms of violence against women and girls with disability, and to provide an opportunity for women with disability to share their personal experiences. Ms Manjoo was moved by the stories she heard of women's lived experience of violence, particularly one woman's story of being raped in an institutional setting. The voices, experiences, knowledge and expertise of women and

girls with disability participating at the Roundtable went on to influence and inform the recommendations in the Special Rapporteur's thematic report submitted to the UN General Assembly.<sup>46</sup>

WWDA regularly uses the work of the Special Rapporteurs, including their thematic reports and recommendations, in our advocacy work, both domestically and internationally. For example, *UN Special Rapporteur on Torture [and other cruel, inhuman or degrading treatment or punishment]*, Mr Juan E. Mendez, has provided substantial and detailed guidance to States in relation to sexual violence and reproductive rights violations<sup>47</sup> and WWDA utilises this information and guidance in our advocacy work with our own Governments and other key stakeholders.

The *UN Special Rapporteur on the Right to Health*, Mr Arnand Grover, has also provided strong and specific guidance regarding the Right to Health as it applies to people with disability, particularly women and girls. He has specifically emphasised that forced sterilisation, forced abortion, forced contraception and forced pregnancy has long been recognised as an unjustifiable form of State-sanctioned coercion, a violation of the right to health, and may constitute torture and ill-treatment.<sup>48</sup> And critically, he has confirmed that the existence of a disability is not a lawful justification for any deprivation of liberty, including denial of informed consent.

In 2016 the *UN Special Rapporteur on Disabilities*, Ms Catalina Devandas Aguilar, submitted to the Human Rights Council her report from the thematic study on the right of persons with disability to participate in decision-making.<sup>49</sup> The report provides authoritative guidance and recommendations to States in relation to decision-making and participatory rights of people with disability, making it clear that the CRPD mandates participation of people with disability in all matters affecting them. WWDA has utilised this Report to educate our own governments and other stakeholders on the critical importance of DPO's – which are still not well understood in Australia.

The Special Rapporteur defines and clarifies the fundamental difference between representative organisations of people with disability, and representative organisations for people with disability. She clarifies that representative organisations of people with disability are led, controlled by, and constituted of people with disability<sup>50</sup> (DPO's).

The report of the Special Rapporteur on Disabilities also specifically addresses the situation of women and girls with disability, highlighting the fact that despite the widespread human rights violations affecting them, the intersectionality between gender and disability-based issues is still not fully included in the work of the different stakeholders promoting the rights of people with disability or the rights of women. The Special Rapporteur has urged States to engage with women and girls with disability and secure their direct participation in all processes of public decision-making, and guarantee that such participation and consultation is conducted in a safe environment, particularly in processes relating to the development of legislative or policy measures regarding violence and sexual abuse.<sup>51</sup>

## USING THE UN CHARTER BASED BODIES

In using a holistic, comprehensive human rights framework to promote and advance the rights of women and girls with disability, WWDA's work also includes engaging with and participating in UN Charter based bodies, such as the *UN Commission on the Status of Women (CSW)*.<sup>52</sup> WWDA was fortunate to be represented at the 56th session of CSW in 2012, the 57th session (2013) the 58th session (2014) and the 59th session (2015). The visibility of WWDA and our sister colleagues at CSW over the past few years has seen more emphasis given to women with disability in the Agreed Conclusions stemming from sessions of CSW. WWDA has also utilised the opportunity of participating at CSW sessions, to co-host, and support sponsor Side Events on Women and Girls with Disability. At the 56th session, WWDA co-sponsored and presented at a High Level Panel on Rural Women and Girls with Disabilities. This was a

significant event, as it was only the second time that a specific focus on disability had been discussed at any of the CSW sessions in the UN in all of its 56 years.

The influence of women with disability on the CSW process cannot be over-stated. For example, in 2013, the 57th session of CSW addressed the Elimination and prevention of all forms of violence against women and girls. The *Agreed Conclusions* document from the 57th session<sup>53</sup> make strong reference to the multiple forms of violence perpetrated against women and girls with disability, particularly in relation to sexual and reproductive rights violations.<sup>54</sup> The agreed conclusions call on States to condemn and take action against forced procedures or those conducted without informed consent, specifically, forced hysterectomy, forced caesarean section, forced sterilisation, forced abortion, and forced use of contraceptives, especially for women with disability.

## FORMING STRATEGIC ALLIANCES, BUILDING COALITIONS AND WORKING COLLABORATIVELY

Building alliances and collaborative relationships with a variety of stakeholders across a wide range of sectors, both domestically and internationally, is critical in WWDA's work to challenge and change discriminatory attitudes, prejudices and stereotypes, which have tended to exacerbate the exclusion and marginalisation of women and girls with disability from mainstream policy, programs, organisations and services. For WWDA, effective collaborative relationships are based on mutual trust and respect, and WWDA recognises that these mutually beneficial relationships achieve outcomes that extend beyond what WWDA can achieve in isolation.

WWDA is a founding member of *Disabled People's Organisations Australia* (DPOA), which is a relatively new and innovative alliance of four national DPO's in Australia.<sup>55</sup> The key purpose of the DPOA is to promote, protect and advance the human rights and freedoms of people with disability in Australia by working collaboratively on areas of shared interests,

purposes and strategic priorities and opportunities. In forming DPOA, its member organisations recognise and value the strength of working together in a spirit of mutual respect and trust, to proactively pursue human rights outcomes for all people with disability in Australia. Working as an alliance, DPOA has undertaken significant national and international work to advance the rights of people with disability. Just some recent examples include: a DPOA delegation to the CRPD COSP in June 2016, which included DPOA conducting a number of Side Events; the DPOA Federal Election Platform Campaign; and, the DPOA campaign for the *Senate Inquiry into Violence against people with disability in institutional and residential settings*.

During 2016, WWDA worked in partnership with a private sector company called Medibank Health Solutions (MHS), which delivers a range of health care solutions on behalf of the Australian Government, including *1800RESPECT* - the national sexual assault, domestic and family violence 24-hour telephone and online counselling, information and referral service. As a support program for women with disability experiencing or at risk of experiencing violence, there had been significant limitations with all aspects of the *1800RESPECT* service since its establishment in 2010. In response to WWDA's advocacy on this issue, MHS agreed to work in partnership with WWDA on a six-month project to identify reforms needed to improve *1800RESPECT* service responses to be inclusive of, and accessible to, women and girls with disability experiencing, or at risk of violence. This Project, implemented from a strong human rights approach, and its subsequent seminal Report,<sup>56</sup> demonstrates amongst other things, the critical need to respect, reflect and prioritise the experiences and expertise of women with disability when conceptualising, designing, implementing and evaluating programs and service responses to address and prevent violence against women.

WWDA has built collaborative partnerships and coalitions at both the domestic and international levels. In 2015, WWDA joined forces with the *United*

Nations Population Fund (UNFPA) to establish an innovative four-year global program to improve the human rights of young people with disability worldwide. Part of WWDA's work in helping to establish this global program, included organising and hosting a national forum of young people with disability in Australia to advise and inform the development of the global Program, including the branding and promotional campaign for the entire project. The *Global Program for Young People with Disability: "WE DECIDE: A Programme for Equal Opportunities and a Life Free of Violence"* was officially launched at the 9th session of the Conference of States Parties (COSP) to the Convention on the Rights of Person's with Disabilities (CRPD) in New York. WWDA co-sponsored and co-hosted the official launch, which was attended by over 150 invited delegates. The Australian Government delegation to COSP attended the launch and gave a presentation on behalf of the Australian Government.

In 2011, WWDA collaborated with the Open Society Foundations, Human Rights Watch and the International Disability Alliance to write and publish an *International Briefing Paper on the Sterilisation of Women and Girls with Disabilities*.<sup>57</sup> The Paper outlines various international human rights standards that prohibit forced sterilisation of women and girls with disabilities and offers several recommendations for improving laws, policies, and professional guidelines governing sterilisation practices. Being an active part of this global campaign and jointly collaborating on advocacy work, raised the profile of the issue and helped to build the evidence base. Importantly, it gave WWDA a sense of solidarity and affirmed that we are not alone in our systemic advocacy efforts to stop the sexual and reproductive rights violations of women and girls with disability. The paper continues to be cited and referenced in UN documents and other papers the world over.

These few examples demonstrate the importance and value of working collaboratively with a wide range of partners and allies, in all efforts to advance the rights of women and girls with disability.

## MONITORING DEVELOPMENTS

Through our extensive networks, alliances and collaborative relationships, we work hard to keep abreast of developments occurring in relation to the rights of women and girls with disability. For example, in 2012, one of our members alerted us to the development of draft Mental Health legislation in the state of Western Australia, which proposed that children with mental health diagnoses could be sterilised without Court authorisation, provided they demonstrated 'sufficient maturity and understanding to make reasonable decisions'<sup>58</sup> about themselves. WWDA acted swiftly, writing formally to the Western Australian Government insisting that this section of the proposed Act be immediately repealed in light of its contravention of many of the human rights instruments to which Australia is a signatory and, the fact that it patently infringed on disabled girls' fundamental human right to bodily integrity. We then widely publicised these developments, and formally sent copies of our letter to various UN officials, including, among others, the High Commissioner for Human Rights and the Special Representative of the UN Secretary General on Violence Against Children. WWDA's action yielded immediate results, with the issue being reported internationally in various media, sections of the UN responding formally, our own Human Rights institution intervening, and finally, a concession from the Western Australian Government that the section of the proposed Act would be withdrawn.

Monitoring the outcomes of other countries UN reporting processes enables us to use these developments in our own advocacy work. This assists us in building the evidence base around the widespread infringements of the rights of women and girls with disability, and importantly, places our work firmly in a globalised context.

## ENDNOTES

- 1 Disabled People's Organisations (DPO's) are recognised around the world and in international human rights law as self-determining organisations led by, controlled by, and constituted of, people with disability. The 'will and preferences of people with disability' are at the top of the hierarchy in decision making of DPO's. Importantly, DPO's are organisations "of" people with disability, as opposed to organisations "for" people with disability. See for eg: United Nations General Assembly (12 January 2016) Report of the Special Rapporteur on the rights of persons with disabilities. Human Rights Council, Thirty-first session. UN Doc. No. A/HRC/31/62
- 2 Australian Bureau of Statistics (2011) Disability, Australia, 2009, Cat. No. 4446.0. Accessed online July 2014 at: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4446.0>
- 3 United Nations General Assembly (12 January 2016) Report of the Special Rapporteur on the rights of persons with disabilities. Human Rights Council, Thirty-first session. UN Doc. No. A/HRC/31/62. See also: Committee on the Rights of Persons with Disabilities, General Comment No 1 (2014) – Equal recognition before the law, 11th sess, UN Doc CRPD/C/GC/1 (19 May 2014).
- 4 The influence of ableism is poorly recognised in Australia, but is a term used to capture the way that the construction of social systems with able-bodied people as the norm results in the systemic, structural, intersecting and individual forms of discrimination against and exclusion of people with disabilities. People with disability, by virtue of the exceptional status of falling away from this norm, are often treated as less than fully human. See for example: Campbell, F.K. (2011) Stalking ableism: using disability to expose 'abled' narcissism, in D. Goodley, B. Hughes & L. Davis (eds), Disability and social theory: New developments and directions, Basingstoke: Palgrave Macmillan.
- 5 WWDA (2015) Ableism. Draft Paper for the National Framework to Prevent Violence Against Women and their Children, Our Watch.
- 6 Frohmader, C. (2013) 'Dehumanised: The Forced Sterilisation of Women and Girls with Disabilities in Australia'. Women with Disabilities Australia (WWDA), Rosny Park, Australia.
- 7 WWDA (2016) Proceedings from the WWDA National Forum (forthcoming).
- 8 WWDA (2007) Forgotten Sisters - A Global Review of Violence against Women with Disabilities. WWDA Resource Manual on Violence Against Women With Disabilities. Hobart, Tasmania: Women With Disabilities Australia
- 9 Dowse, L., Soldatic, K., Didi, A., Frohmader, C. and van Toorn, G. (2013) Stop the Violence: Addressing Violence Against Women and Girls with Disabilities in Australia. Background Paper. Hobart: Women with Disabilities Australia. Available online at: [http://wwda.org.au/wp-content/uploads/2013/12/STV\\_Background\\_Paper\\_FINAL.pdf](http://wwda.org.au/wp-content/uploads/2013/12/STV_Background_Paper_FINAL.pdf)
- 10 Frohmader, C., Dowse, L., and Didi, A. (2015) 'Preventing Violence against Women and Girls with Disabilities: Integrating A Human Rights Perspective'. Women With Disabilities Australia (WWDA), Hobart, Tasmania. ISBN: 978-0-9585268-4-5.
- 11 'Gendered disability violence' is conceptualised as 'violence directed against a woman because she is a woman, which is shaped by the disability context, and which affects women with disabilities disproportionately as individuals and as a group.' See: Frohmader, C., Dowse, L. and Didi, A. (2015) OpCit.
- 12 Frohmader, C., Dowse, L. and Didi, A. (2015) OpCit.
- 13 Committee of Ministers of the Council of Europe (2009) Declaration: Making gender equality a reality. 119th Session of the Committee of Ministers, Madrid, 12 May 2009.

- 14 Frohmader, C. (2013) OpCit., See also: Frohmader, C., & Sands, T. (2015) Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into Violence, abuse and neglect against people with disability in institutional and residential settings'. Australian Cross Disability Alliance (ACDA); Sydney, Australia. See also: Frohmader, C. (2014) 'Gender Blind, Gender Neutral': The effectiveness of the National Disability Strategy in improving the lives of women and girls with disabilities. Prepared for Women With Disabilities Australia, Hobart, Tasmania. ISBN: 978-0-9585268-2-1.
- 15 Frohmader, C. and Sands, T. (2015) OpCit.
- 16 Office of the Public Advocate (2010) Submission to the Victorian Law Reform Commission in Response to the Guardianship Information Paper. Accessed online October 2011 at: <http://www.publicadvocate.vic.gov.au/file/file/Research/Submissions/2010/OPA-Submission-to-VLRC-May-2010.pdf> See also: French, P., Dardel, J. & Price-Kelly, S. (2010) Rights Denied: Towards a National Policy Agenda About Abuse, Neglect & Exploitation of Persons with Cognitive Impairment. People With Disability Australia (PWD), Sydney, NSW.
- 17 Frohmader, C. and Sands, T. (2015) OpCit.
- 18 Ibid.
- 19 Australian Bureau of Statistics, 4433.0.55.006 - Disability and Labour Force Participation, 2012.
- 20 See for eg: Frohmader, C. (2014) OpCit.
- 21 Australian Human Rights Commission (2010) Australia's Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). See also: Australian Cross Disability Alliance (ACDA) (2016) Submission to the CRPD Committee 14th Session 'Day of General Discussion (DGD) on the right of persons with disabilities to live independently and be included in the community'; 19th April 2016; Prepared by Carolyn Frohmader for the Australian Cross Disability Alliance (ACDA).
- 22 Meekosha, H. (2004) Gender and Disability. Entry for the Sage Encyclopaedia of Disability.
- 23 Arnade, S. & Haefner, S. (2006) Gendering the Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities. Legal background paper. Published by Disabled Peoples' International (DPI), Berlin.
- 24 This happens in two main ways: a) the child is removed by child protection authorities and placed in foster or kinship care; and b) a Court, under the Family Law Act, may order that a child be raised by the other parent who does not have a disability or by members of the child's extended family. See: Victorian Office of the Public Advocate (OPA) (2012) OPA Position Statement: The removal of children from their parent with a disability. <http://www.publicadvocate.vic.gov.au/research/302/>
- 25 Frohmader, C. (2014) OpCit.
- 26 United Nations General Assembly (12 January 2016) Report of the Special Rapporteur on the rights of persons with disabilities. Human Rights Council, Thirty-first session. UN Doc. No. A/HRC/31/62.
- 27 These seven treaties are: Convention on the Elimination of All Forms of Racial Discrimination on 21 December 1965 ([1975] ATS 40); International Covenant on Economic, Social and Cultural Rights on 16 December 1966 ([1976] ATS 5); International Covenant on Civil and Political Rights (ICCPR) on 16 December 1966 ([1980] ATS 23); Convention on the Elimination of All Forms of Discrimination against Women on 18 December 1979 ([1983] ATS 9); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) on 10 December 1984 ([1989] ATS 21); Convention on the Rights of the Child on 20 November 1989 ([1991] ATS 4); Convention on the Rights of Persons with Disabilities [2008, ATS 12].

- 28 The UN Special Rapporteur on Torture has emphasised this: “it is necessary to highlight additional measures needed to prevent torture and ill-treatment against people with disabilities, by synthesizing standards and coordinating actions in line with the CRPD”. See: Juan E. Mendez, Special Rapporteur, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 22nd sess, UN Doc A/HRC/22/53 (1 February 2013), para, 62.
- 29 Grossman, C. and McCormack, F. (2012) The Relevance of the Convention Against Torture in Preventing and Redressing Violence Against Women. Accessed June 2016 at: <https://www.monash.edu/law/centres/castancentre/public-events/events/2012/grossman-lecture>
- 30 Méndez, J. E. (2013) Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN General Assembly; UN.Doc A/HRC/22/53.
- 31 Committee against Torture, Concluding observations on the combined fourth and fifth periodic reports of Australia, 53rd sess, UN Doc No. CAT/C/AUS/CO/4-5 (23 December 2014).
- 32 Ibid.
- 33 Ibid.
- 34 Emeritus Professor Ivan Shearer, cited in The Senate Community Affairs References Committee (July 2013) Involuntary or coerced sterilisation of people with disabilities in Australia; Commonwealth of Australia.
- 35 See: <http://www.ohchr.org/EN/HRBodies/Pages/TBGeneralComments.aspx>
- 36 See: <http://www.institut-fuer-menschenrechte.de/en/topics/development/frequently-asked-questions/9-what-are-general-comments/>
- 37 Committee on the Rights of Persons with Disabilities (2016) General comment No. 3. Article 6: Women and girls with disabilities. 2nd September 2016, UN Doc. No. CRPD/C/GC/3.
- 38 ‘Disability Rights Now’ Civil Society Report to the United Nations Committee on the Rights of Persons with Disabilities; August 2012.
- 39 Since Australia was last reviewed in 2009, the Human Rights Committee has developed a new optional process for the review of states, known as the List of Issues Prior to Reporting (LOIPR). The Human Rights Committee develops a LOIPR on the basis of previous Concluding Observations and information provided by the Office of the High Commissioner on Human Rights (OHCHR), the Universal Periodic Review (UPR), the UN Special Procedures, NGOs and National Human Rights Institutions. The LOIPR on Australia was adopted by the Human Rights Committee at its 106th session in late 2012.
- 40 Human Rights Committee, International Covenant on Civil and Political Rights; List of issues prior to the submission of the sixth periodic report of Australia (CCPR/C/AUS/6), adopted by the Committee at its 106th session (15 October–2 November 2012); UN Doc No. CCPR/C/AUS/Q/6; 9 November 2012.
- 41 CCPR/C/AUS/CO/5, para. 17, and the State party’s follow-up responses (CCPR/C/AUS/CO/5/Add.1, Add.2 and Add.3).
- 42 Committee on the Elimination of Discrimination against Women (2010) Concluding observations of the Committee on the Elimination of Discrimination against Women: Australia. CEDAW Forty-sixth session, 12 – 30 July 2010. CEDAW/C/AUS/CO/7.
- 43 UN ‘Special procedures’ are either an individual (called "Special Rapporteur" or "Independent Expert") or a working group composed of five members, one from each of the five United Nations regional groupings: Africa, Asia, Latin America and the Caribbean, Eastern Europe and the Western group. The Special Rapporteurs, Independent Experts and members of the Working Groups are appointed by the Human Rights Council and



serve in their personal capacities. They undertake to uphold independence, efficiency, competence and integrity through probity, impartiality, honesty and good faith. They are not United Nations staff members and do not receive financial remuneration. The independent status of the mandate-holders is crucial for them to be able to fulfil their functions in all impartiality. A mandate-holder's tenure in a given function, whether it is a thematic or country mandate, is limited to a maximum of six years. The Special Procedures of the Human Rights Council are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. The system of Special Procedures is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social. See: <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx>

- 44 Mr. Anand Grover, United Nations Special Rapporteur on the Right to the Highest Attainable Standard of Physical and Mental Health; Ms. Rashida Manjoo, United Nations Special Rapporteur on Violence against Women, its causes and consequences; Mr. Juan E Méndez, United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and, Mr. Shuaib Chalklen, United Nations Special Rapporteur on Disability.
- 45 See: [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Community\\_Affairs/Involuntary\\_Sterilisation](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilisation)
- 46 Manjoo, R. (2012) Report of the Special Rapporteur on violence against women, its causes and consequences. United Nations General Assembly, UN Doc No. A/67/227.
- 47 Méndez, Juan. E, (2013) UN.Doc No. A/HRC/22/53, Op Cit.;
- 48 UN General Assembly, Right of everyone to the enjoyment of the highest attainable standard of physical and mental health: note / by the Secretary-General, 10 August 2009, UN.Doc No. A/64/272
- 49 United Nations General Assembly (12 January 2016) Report of the Special Rapporteur on the rights of persons with disabilities. Human Rights Council, Thirty-first session. UN Doc. No. A/HRC/31/62.
- 50 Ibid.
- 51 United Nations General Assembly (12 January 2016) Report of the Special Rapporteur on the rights of persons with disabilities. Human Rights Council, Thirty-first session. UN Doc. No. A/HRC/31/62
- 52 The UN Commission on the Status of Women (CSW), established in 1946, is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women. During the Commission's annual two-week session, representatives of UN Member States, civil society organisations and UN entities gather at UN headquarters in New York. They discuss progress and gaps in the implementation of the 1995 Beijing Declaration and Platform for Action, the key global policy document on gender equality, and the 23rd special session of the General Assembly held in 2000, as well as emerging issues that affect gender equality and the empowerment of women. Member States agree on further actions to accelerate progress and promote women's enjoyment of their rights in political, economic and social fields. Member states agree to implement the outcomes and recommendations of each session.
- 53 Commission on the Status of Women (2013), The elimination and prevention of all forms of violence against women and girls: Agreed conclusions; Fifty-seventh session, 4 – 15 March 2013; Accessed online July 2015 at: <http://www2.unwomen.org/~media/headquarters/attachments/sections/csw/57/csw57-agreedconclusions-a4-en.pdf?v=1&d=20140917T100700>
- 54 The CSW57 Agreed Conclusions (57th session) make strong reference to the issue of violence against women and girls with disabilities, including, for example the need for governments to: a) take all appropriate legislative, administrative, social, educational and other measures to protect and promote the rights of women and girls

with disabilities as they are more vulnerable to all forms of exploitation, violence and abuse, including in the workplace, educational institutions, the home, and other settings; b) take appropriate measures to ensure the human rights of and protect women and girls deprived of their liberty and/or under State custody or State care from all forms of violence, in particular sexual abuse; and, c) condemn and take action to prevent violence against women and girls in health care settings, including sexual harassment, humiliation and forced medical procedures, or those conducted without informed consent, and which may be irreversible, such as forced hysterectomy, forced caesarean section, forced sterilisation, forced abortion, and forced use of contraceptives, especially for particularly vulnerable and disadvantaged women and girls, such as women with disabilities.

- 55 The four founding member organisations of DPOA are: Women With Disabilities Australia (WWDA); National Ethnic Disability Alliance (NEDA); First People's Disability Network Australia (FPDNA) and People with Disability Australia (PWDA).
- 56 Women With Disabilities Australia (WWDA) 'Improving Service Responses for Women with Disability Experiencing Violence'; Final Report. Written by Carolyn Frohmader and Cristina Ricci on behalf of Women With Disabilities Australia; August 2016. ISBN: 978-0-9585268-5-2
- 57 Women With Disabilities Australia (WWDA), Human Rights Watch (HRW), Open Society Foundations, & International Disability Alliance (IDA) (2011) Sterilization of Women and Girls with Disabilities: A Briefing Paper (November).
- 58 Government of Western Australia [Draft] Mental Health Bill 2011. Accessed online June 2012 at: [http://www.mentalhealth.wa.gov.au/Libraries/pdf\\_docs/Discussion\\_Draft\\_for\\_Mental\\_Health\\_Bill\\_2011\\_v3.sflb.ashx](http://www.mentalhealth.wa.gov.au/Libraries/pdf_docs/Discussion_Draft_for_Mental_Health_Bill_2011_v3.sflb.ashx)



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