



Disabled
People's
Organisations
Australia

Submission

Special Rapporteur on violence against women, its
causes and consequences

Country visit to Australia

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Publishing Information

Disabled People's Organisations Australia (DPO Australia) *Submission to the United Nations Special Rapporteur on violence against women, its causes and consequences: Country Visit to Australia, January 2017.*

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Supporting documentation provided with this Submission

1. 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.
2. Frohmader, C., & Sands, T. (2015) Australian Cross Disability Alliance (ACDA) *Personal Stories and Testimonies*. Accompanying document to the *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.
3. Women With Disabilities Australia (WWDA) (2016) *‘Improving Service Responses for Women with Disability Experiencing Violence: 1800RESPECT’*. Final Report. Written by Carolyn Frohmader and Cristina Ricci on behalf of Women With Disabilities Australia (WWDA), Tasmania. August 2016. ISBN: 978-0-9585268-5-2
4. Women With Disabilities Australia (WWDA) (2016) *Position Statement 1: The Right to Freedom From All Forms of Violence*. WWDA, September 2016, Hobart, Tasmania. ISBN: 978-0-9585268-6-9
5. Women With Disabilities Australia (WWDA) (2016) *Position Statement 4: Sexual and Reproductive Rights*. WWDA, September 2016, Hobart, Tasmania. Copyright. ISBN: 978-0-9585269-6-8

Introduction

1. Disabled People's Organisations Australia (DPOA) is an alliance of four national population specific and cross-disability DPOs in Australia. The four DPO Australia members are: Women With Disabilities Australia (WWDA); First Peoples Disability Network Australia (FPDNA); People with Disability Australia (PWDA); and, National Ethnic Disability Alliance (NEDA). As Disabled People's Organisations (DPOs), these four organisations are led by and constituted of people with disability.¹
2. The key purpose of DPO Australia 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. DPO Australia is the recognised coordinating point between Government/s and other stakeholders, for consultation and engagement with people with disability in Australia. See Appendix 1 for more information on DPO Australia.
3. DPO Australia welcomes the invitation from Ms. Dubravka šimonović, the Special Rapporteur on violence against women, its causes and consequences, for written submissions and supporting materials in preparation of her Country visit to Australia in February 2017. DPO Australia congratulates the Special Rapporteur for her expressed intent to particularly focus her country visit to Australia, on women who encounter multiple and intersecting forms of discrimination, including indigenous women, women with disabilities, migrant and refugee women and women from remote or rural communities.
4. DPO Australia acknowledges with appreciation the opportunity to provide this brief Submission and its accompanying documentation to the Special Rapporteur. The aim of this Submission is to provide a brief overview of the situation of violence against women and girls with disability in Australia, who are recognised through evidence based research, to experience multiple and intersecting forms of discrimination, to experience high rates of all forms of violence, and to experience exclusion from laws, policies, programs and services designed to respond to, address and prevent violence against women.² DPO Australia looks forward to the opportunity to meet with the Special Rapporteur on violence against women, its causes and consequences, during her Country visit to Australia to further discuss the issues raised in this Submission.

Background and Context

5. International human rights law now strongly 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.³ 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.
6. However, women and girls with disability in Australia have failed to be afforded, or benefit from, these provisions in international human rights law and domestic frameworks. Instead, they continue to represent one of the most excluded and marginalised groups of women,

subject to widespread discrimination, systemic prejudice, paternalistic and ableist⁴ attitudes that denigrate, devalue, oppress, limit and deny their potential and their rights and freedoms.⁵ They are often not afforded dignity, recognition, respect, agency and/or autonomy.⁶ Regrettably, women and girls with disability in Australia 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 people with disability themselves.⁷

7. For more than two decades, women and girls with disability in Australia have consistently identified violence as the most urgent and unaddressed human rights issue they face.⁸ They have argued for national leadership and wide-ranging reforms in law, policy, programs and services to address the epidemic that is violence against them. Their calls for action have been echoed and affirmed by the international human rights treaty monitoring bodies and mechanisms since 2005.⁹
8. The multiple forms and complex nature of violence perpetrated against women and girls with disability in Australia currently sit in a legislative, policy and service response vacuum. What this means in practice, is that many women and girls with disability in Australia are not afforded the same protections and responses as others, and violence against women and girls with disability – in all its forms – is allowed to flourish with impunity.

The Evidence

9. It is now well established that violence against women and girls with disability in Australia is far more extensive than violence amongst the general population and is significantly more diverse in nature and more severe than for women in general.¹⁰ 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.¹¹ Their experiences of violence last over a longer period of time, and more severe injuries result from the violence.¹²
10. The gendered nature of violence against people with disability sees more than 70% of women with disability having been victims of violent sexual encounters at some time in their lives.¹³ A staggering 90% of women with an intellectual disability have been subjected to sexual abuse, with more than two-thirds (68%) having been sexually abused before they turn 18 years of age.¹⁴ Twenty per cent of women with disability report a history of unwanted sex compared to 8.2% of women without disability,¹⁵ and the rates of sexual victimisation of women with disability range from four to 10 times higher than for other women.¹⁶ More than a quarter of rape cases reported by females in Australia are perpetrated against women with disability.¹⁷
11. Women with disability are 40% more likely to be the victims of domestic violence than women without disability.¹⁸ Evidence indicates that every week in Australia, three women are hospitalised with a brain injury as a direct result of family violence.¹⁹ Violence is present in the lives of one in four women with disability who accessed some form of service support in Australia between 2012-13.²⁰ Eighty-five (85%) of women with mental health impairment

report feeling unsafe during hospitalisation, 67% per cent report experiencing sexual or other forms of harassment during hospitalisation and almost half (45%) report experiencing sexual assault during an in-patient admission.²¹ Women comprise 74% of all elder abuse victims,²² and are more likely to experience elder abuse than males, at a rate two and a half times higher.²³

12. Women and girls with disability in Australia experience, and are at particular risk of, forms of violence that are recognised worldwide as not only egregious forms of violence against women, but also as practices which violate the absolute prohibition of torture and ill treatment.²⁴ 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,²⁵ including state sanctioned practices such as forced sterilisation, forced abortion, and forced contraception.²⁶ They are more likely to be isolated and segregated within the range of settings in which they reside, are incarcerated, or receive support services;²⁷ 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,²⁸ often imposed as a means of coercion, discipline, convenience, or retaliation by others.²⁹ For example, Electroconvulsive therapy (ECT) performed on involuntary persons (ie: without that persons consent) indicates that in Australia three times more women than men are subject to the practice, across all age cohorts.³⁰
13. Women with disability represent more than 50% of the female prison population in Australia.³¹ More than half of all women incarcerated in Australian prisons have a diagnosed psychosocial disability and a history of sexual victimisation.³² The rate of incarceration of Indigenous women with disability is higher than equivalent figures for men.³³ 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.³⁴ Women with psychosocial disability and intellectual or learning disability are disproportionately classified as high security prisoners and are more likely than other prisoners to be in high security facilities.³⁵
14. Although the right to 'found a family' and to 'reproductive freedom' is clearly articulated in a number of international human rights instruments to which Australia is a party,³⁶ for many women with disability in Australia, such fundamental human rights are not realisable. Australia has a history of removing children from their natural parents based on the personal characteristic of the parents, such as indigenous background or marital status. In Australia today, a parent with a disability – usually the mother - is up to ten times more likely than other parents to have a child removed from their care.³⁷ Courts and child protection authorities are removing children from their parents on the basis of the parent's disability rather than actual neglect or abuse. A parent's capacity to parent his or her child, even with full community support is not properly assessed.³⁸
15. Women and girls with disability in Australia continue to experience, and be at risk of, gross violations of their reproductive rights, such as forced sterilisation, forced abortion and forced contraception (often wrongfully justified by theories of incapacity and therapeutic necessity)³⁹ and often performed under the auspices of legitimate medical care or the

consent of others in their name.⁴⁰ For example, forced contraception through the use of menstrual suppressant drugs is a widespread, current practice in Australia, particularly affecting girls and women with intellectual and/or cognitive impairment. It is a practice widely used in group homes and other forms of institutional settings, and is often justified as a way of reducing the 'burden' on staff/carers who have to 'deal with' managing menstruation of disabled women and girls.⁴¹

16. Although forced sterilisation is now globally recognised as an act of violence,⁴² a form of social control, and a clear and documented violation of the right to be free from torture,⁴³ it is an ongoing practice that remains legal and sanctioned by Governments in Australia. Perpetrators⁴⁴ are not held accountable and those individuals who have experienced this violent abuse of their rights are unable to obtain justice – such as reparation, compensation, rehabilitation and recovery.⁴⁵
17. In September 2012 the Australian Parliament [Senate] commenced an *Inquiry into the Involuntary or Coerced Sterilization of People with Disability in Australia*, and released its Inquiry Report in July 2013.⁴⁶ The Senate Committee undertaking the Inquiry worked hard to ensure that people with disability, particularly women with disability, were able to participate in the Inquiry and express their views. However, as it transpired, the views of women with disability – those most affected by forced sterilisation and other denials of reproductive rights – held little weight and had less influence than the views of parents, carers, guardians and a myriad of 'professionals' and other 'experts', many of whom argued for the practice of sterilisation of girls and women with disability to be allowed to continue in Australia.⁴⁷
18. The Final Report of the Senate Inquiry subsequently recommended that national uniform legislation be developed to *regulate* sterilisation of children and adults with disability, rather than to *prohibit* the practice,⁴⁸ as has long been recommended to Australia by international human rights treaty bodies, UN special procedures, human rights advocates, disability advocates, and most importantly women with disability themselves.⁴⁹
19. The Final Report of the Senate Inquiry recommended that for an adult with disability who has the 'capacity' to consent, sterilisation should be banned unless undertaken with that consent.⁵⁰ However, based on Australia's Interpretative Declaration in respect of Article 12 of the *Convention on the Rights of Persons with Disabilities* (CRPD), the Report also recommended that where a person with disability does not have 'capacity' for consent, substitute decision-making laws and procedures may permit the sterilisation of persons with disability. The Report further recommended that the financial costs incurred by parents or guardians in child sterilisation cases be covered by legal aid (free legal representation and related costs),⁵¹ which could in fact, make it *easier* rather than more difficult, for sterilisation procedures to be sought.
20. It is clear that Australia's Interpretative Declarations to the CRPD (in respect of Articles 12, 17) has in fact exacerbated the pervasive violations of the human rights of women and girls with disability, and been used by successive Australian Governments as a justification to deny disabled women and girls their sexual and reproductive rights. Regardless of the fact that the monitoring bodies of the core international human rights treaties have all found that forced and coerced sterilisation clearly breaches multiple provisions of the respective treaties,⁵² successive Australian Governments have determined that Australia's obligations are shaped by the Interpretative Declarations made at the time Australia *ratified* the

Convention. In ratifying the treaty, Australia declared its view that the CRPD allows for substituted decision-making and compulsory medical treatment.⁵³

21. During its September 2013 review of Australia's compliance with the CRPD, the CRPD Committee repeatedly expressed its concern at the impact of Australia's Interpretative Declarations to Articles 12, 17 and 18 on the implementation of the CRPD. The CRPD Committee stressed to the Australian Government delegation, that these Interpretive Declarations have in fact hindered Australia's ability to comply with the *Convention on the Rights of Persons with Disabilities* (CRPD).⁵⁴
22. The Final Report of the *Senate Inquiry into Involuntary Sterilization of People with Disabilities in Australia* used Australia's Interpretative Declaration to Articles 12 and 17 of the CRPD to reject the consistent recommendation from international human rights treaty bodies, UN special procedures, human rights advocates, disability advocates, and women with disability, that the Australian Government 'adopt national uniform legislation prohibiting the use of sterilization of boys and girls with disabilities, and of adults with disability in the absence of their prior, fully informed and free consent.'⁵⁵
23. Successive Australian Governments have demonstrated an apathy and indifference to the urgency of prohibiting this practice, and regrettably, a callous disregard for the life-long impact on those individuals affected. Successive Australian Governments remain of the view that it is an acceptable practice to sterilise children and adults with disability, provided that they 'lack capacity' and that the procedure is in their 'best interest', as determined by a third party.⁵⁶

Definitions and Conceptual Frameworks

24. In the Australian context, there remains a significant lack of awareness and understanding of the extent, nature, incidence and impact of violence against women with disability at the individual, community, service provider and criminal justice system levels, along with the violence prevention public policy environment.⁵⁷ Violence perpetrated against women and girls with disability falls through a number of legislative, policy and service delivery 'gaps' as a result of the failure to understand the intersectional nature of the violence that they experience, the vast circumstances and spaces in which such violence occurs, and the multiple and intersecting forms of discrimination which make them more likely to experience, and be at risk of, violence.⁵⁸
25. Regardless of setting or context, violence against women and girls with disability in Australia continues to be conceptualised, downplayed and 'detoxified' as 'abuse' or 'neglect' or 'service incidents,' or 'administrative infringements' or a 'workplace issue to be addressed'⁵⁹ - rather than viewed as 'violence' or crimes.⁶⁰ This is particularly the case in institutional and residential settings - including group homes, boarding houses, respite services, day support services, mental health facilities, and prisons - where violence perpetrated against women and girls with disability is rarely recognised or understood as 'violence', and more often than not, is deliberately minimised, trivialised, ignored, dismissed, excused, covered up, or normalised. The downplaying of violence against women and girls with disability is also a common response to women with disability experiencing violence perpetrated by a partner or carer - where the violence is often re-

framed as an 'incident' and is then 'excused' or minimised because the woman has a disability, and she therefore must be to 'blame'.⁶¹

26. Current gendered violence prevention policies and discourse in Australia are predominantly focused on addressing and preventing 'domestic' and 'family' violence – typically understood as intimate partner and/or spousal violence that occurs within the family setting between former or current spouses or partners.⁶² There appears to be an underlying assumption in the Australian violence prevention public policy environment that 'violence against women' means 'domestic and family violence and/or sexual assault' and vice-versa.
27. This focus on narrow conceptual understandings of 'domestic and family violence' as spousal and/or intimate partner violence has resulted in other forms of violence against women, (such as those identified with violence against women with disability), becoming further obscured, resulting in their omission or marginalisation in policies and service responses designed to address and prevent violence against women.⁶³ Importantly, conceptualising 'violence against women' principally as 'domestic/family violence' and sexual assault, hides the structural and institutional forms of violence related to law, the state and culture that women and girls with disability not only experience, but are more at risk of⁶⁴ – such as forced sterilisation, forced abortion, forced contraception, denial of legal capacity, forced treatment, restrictive practices, restraint, and indefinite detention.⁶⁵
28. The lack of a clear definition and conceptual understanding of violence against women with disability at all levels means in effect, that their experiences of violence are not properly recognised across the legal and service systems, they are given less protection than their counterparts who do not have disability, and the likelihood of them benefiting from integrated and coordinated responses, including prevention, is substantially compromised.⁶⁶

Violence against people with disability in institutional and residential settings

29. Violence perpetrated against people with disability – particularly women and girls with disability - in institutional and residential settings is Australia's hidden shame. More often than not, violence perpetrated against people with disability in institutional and residential settings, constitutes torture and ill treatment as defined and recognised in international human rights law, including the treaties to which Australia is a party. Violence against people with disability in institutional and residential settings is an urgent, unaddressed national crisis, of epidemic proportions,⁶⁷ yet is excluded from national policy responses relating to violence prevention, and from national policy responses relating to advancing the human rights of people with disability. This epidemic affects some of the most vulnerable, marginalised people in our communities, with specific implications for women and children with disability, Aboriginal and Torres Strait Islander peoples with disability and people with disability from non-English speaking and culturally and linguistically diverse backgrounds.⁶⁸
30. For more than two decades, Disabled Peoples Organisations (DPOs), civil society organisations (CSOs); the United Nations, people with disability themselves, their families, allies, friends and advocates, have appealed to successive Australian Governments to

show national leadership and act urgently to address all forms of violence perpetrated against people with disability in institutional and residential settings in Australia. Wide-ranging systemic failures in legislation, policies and service systems in Australia facilitate conditions that give rise to torture and ill treatment of people with disability. These failures are embedded within and underscored by an ableist culture which sees the promotion and support of laws, systems, policies and practices which not only deny people with disability their most basic human rights but which provide a legitimised gateway through which torture and ill-treatment against people with disability can flourish.⁶⁹

31. In 2015, in response to a groundswell of public calls for Government to take action to address violence perpetrated against people with disability in institutional and residential settings in Australia, the Australian Parliament (Senate) commenced an Inquiry, which was conducted over a 12 month period. The Senate Inquiry into *'Violence, abuse and neglect against people with disability in institutional and residential settings'*:

"heard highly distressing personal accounts from many people with disability. The inquiry also heard from dedicated family members and advocates speaking on behalf of loved ones, some of whom died as a result of violence or neglect. Much of the evidence was received in camera, largely due to the personal nature of the evidence, but in some cases because of the possibility of repercussions for speaking out. Witnesses told of their fear of speaking out about abusers who had continued daily access to their homes as disability service workers. Evidence was also presented that showed a propensity for reports to service providers about violence and abuse to be ignored, swept under the carpet or treated as a 'workplace issue' rather than a crime."⁷⁰

32. The Final Report of the Senate Inquiry⁷¹ was released on 25th November 2015 and contained 30 recommendations. The Senate Inquiry found that violence against people with disability – particularly women and girls with disability – is so widespread and entrenched, that a Royal Commission is urgently warranted. The Report's primary recommendation states:

'The committee recommends that a Royal Commission into violence, abuse and neglect of people with disability be called, with terms of reference to be determined in consultation with people with disability, their families and supporters, and disability organisations.'⁷²

33. It is now more than a year since the release of the *Senate Inquiry Report into 'Violence, abuse and neglect against people with disability in institutional and residential settings'*. Despite the urgency of the issue and the almost daily media reports of horrific violations of the rights of people with disability in these and other settings – the Australian Government is yet to provide any response to the Final Report of the Senate Inquiry and the 30 recommendations it contains.

Appendix 1: About Disabled People’s Organisations Australia (DPO Australia)

Disabled People’s Organisations Australia (DPOA) (formerly known as the Australian Cross Disability Alliance) is an alliance of four national DPOs in Australia. DPOs are organisations that are led by and constituted of people with disability. The key purpose of the DPO Australia 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.

DPO Australia was founded by, and is made up of four national population specific and cross-disability DPOs that have been funded by the Australian Government to be the recognised coordinating point between Government/s and other stakeholders, for consultation and engagement with people with disability in Australia.

The four DPO Australia members are:

Women With Disabilities Australia (WWDA) is the national cross-disability DPO for women and girls with all types of disabilities in Australia. It operates as a transnational human rights organisation and is run by women with disabilities, for women with disabilities. 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.

First Peoples Disability Network Australia (FPDNA) is the national cross-disability DPO representing Aboriginal and Torres Strait Islander people with disability and their families. FPDNA utilises a range of strategies in its representative role, including through the provision of high-level advice to governments, and educating the government and non-government sectors about how to meet the unmet needs of Aboriginal and Torres Strait Islander people with disability.

People with Disability Australia (PWDA) is the national cross disability rights and advocacy organisation run by and for people with disability. Working within a human rights framework, PWDA represents the interests of people with all kinds of disability. Its primary membership is made up of people with disability and organisations primarily constituted by people with disability. It also has a large associate membership of other individuals and organisations committed to the disability rights movement.

National Ethnic Disability Alliance (NEDA) is the national peak organisation representing the rights and interests of people from Culturally and Linguistically Diverse (CALD/NESB) people with disability, their families and carers throughout Australia. NEDA advocates at the federal level so that CALD/NESB people with disability can participate fully in all aspects of social, economic, political and cultural life.



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 Women With Disabilities Australia (WWDA) *Improving Service Responses for Women with Disability Experiencing Violence: 1800RESPECT*. Final Report. Written by Carolyn Frohmader and Cristina Ricci on behalf of Women With Disabilities Australia; August 2016. Copyright. ISBN: 978-0-9585268-5-2
- 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 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.
- ⁸ Women With Disabilities Australia (WWDA) (2016), *National Forum for Women and Girls with Disability: Proceedings and Outcomes Report*. WWDA, Hobart, Tasmania. November 2016. ISBN: 978-0-9775305-4-0
- ⁹ See for eg: CAT/C/SR.1284; CRPD/C/AUS/CO/1; CEDAW/C/AUS/CO/7; CEDAW/C/AUL/CO/5; CCPR/C/AUS/CO/5; E/C.12/AUS/CO/4; CAT/C/AUS/5; CAT/C/AUS/Q/5; CRC/C/AUS/CO/4; A/HRC/17/10; A/HRC/22/53; CRC/C/15/Add.268
- ¹⁰ 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 See also: 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 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.
- ¹² Dowse, L. et al (2013) OpCit.
- ¹³ Ibid.
- ¹⁴ Australian Law Reform Commission (ALRC) (2010) *Family Violence — A National Legal Response. ALRC Final Report 114*. Accessed online January 2013 at: <http://www.alrc.gov.au/publications/family-violence-national-legal-response-alrc-report-114>
- ¹⁵ Dowse, L. et al (2013) OpCit.
- ¹⁶ Ibid.
- ¹⁷ Heenan, M., & Murray, S. (2006). *Study of reported rapes in Victoria 2000–2003. Summary research report*. Melbourne: Statewide Steering Committee to Reduce Sexual Assault. Published by the Office of Women's Policy, Department for Victorian Communities.
- ¹⁸ Brownridge, D. (2006) 'Partner violence against women with disabilities: Prevalence, risks and explanations', *Violence against Women*, vol. 12, no. 9, pp. 805–22.
- ¹⁹ Brain Injury Australia (August 11, 2015) *Media Release: Every week in Australia, one woman is killed - the result of family violence. Every week in Australia, three women are hospitalised with a brain injury - the result of family violence*. <http://www.braininjuryaustralia.org.au/>
- ²⁰ The main types of violence experienced by the women included domestic violence (80%); emotional abuse (68%); sexual violence and abuse (63%); financial abuse (58%); the withholding of care (23%), and the withholding of medication (14%). Importantly, findings from the national 'Stop the Violence Project (STVP) study provided data only on women and girls with disability who had accessed services. However, as highlighted by the STVP, it is highly likely that significant numbers of women and girls with disability who are experiencing or at risk of violence do not access any type of service. This suggests that the prevalence of violence against women and girls with disability is likely to be substantially higher. See: Dowse, L. et al (2013) OpCit.
- ²¹ Victorian Mental Illness Awareness Council, cited in Victorian Equal Opportunity and Human Rights Commission (2014) *Beyond doubt: The experiences of people with disabilities reporting crime – Research findings*. ISBN 978-0-9875444-9-3; Melbourne, Victoria.
- ²² Faye, B. & Sellick, M. (2003) *Advocare's Speak Out Survey "S.O.S" on Elder Abuse*, Advocare Incorporated, Perth.
- ²³ Boldy, D., Webb, M., Horner, B., Davey, M., and Kingsley, B. (2002) *Elder Abuse in Western Australia: Report of a Survey Conducted for the Department for Community Development - Seniors' Interests*, Curtin University of Technology: Division of Health Sciences. Freemason's Centre For Research Into Aged Care Services, Perth.
- ²⁴ 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).
- ²⁵ 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.
- ²⁶ 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. See also: Frohmader, C. (2013) *Dehumanised: The Forced Sterilisation of Women and Girls with Disabilities in Australia*, Women with Disabilities Australia (WWDA), Rosny Park, Australia.
- ²⁷ 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.
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²⁹ Frohmader, C. and Sands, T. (2015) OpCit.

³⁰ In Frohmader, C. (2011) *Submission to the Preparation Phase of the UN Analytical Study on Violence against Women and Girls with Disabilities*, (A/HRC/RES/17/11). Prepared for Women With Disabilities Australia (WWDA). See Also: 'Child shock therapy'; *Herald Sun Newspaper*, January 25, 2009. Accessed online December 2012 at: <http://www.heraldsun.com.au/news/victoria/child-shock-therapy/story-e6frf7kx-1111118657718>

³¹ Frohmader, C., & Sands, T. (2015) OpCit.

³² *Joint NGO report to the United Nations Committee Against Torture; Torture and cruel treatment in Australia*. (November 2014), Human Rights Law Centre, Victoria.

³³ See: Women with Disabilities Australia (WWDA) *Submission to the CRPD Committee 9th Session; 15th – 19th April 2013; Half Day of General Discussion on Women and Girls with Disabilities*.

³⁴ *Ibid*.

³⁵ Sisters Inside, Submission: 'Rights of Women Prisoners', National Human Rights Consultation, June 2009; www.sistersinside.com.au/media/FINAL%20-%20National%20HR%20Submission%20June%202009.pdf

³⁶ See for eg: International Covenant on Economic, Social and Cultural Rights (Article 10); International Covenant on Civil and Political Rights (Article 23); Convention on the Elimination of All Forms of Discrimination against Women (Article 16); Convention on the Rights of Persons with Disabilities (Article 23).

³⁷ 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/>

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⁴² See: Manjoo, Rashida (2012) *Report of the Special Rapporteur on violence against women, its causes and consequences*; UN General Assembly; UN Doc. A/67/227;. See also: Radhika Coomaraswamy (1999), *Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences: Policies and practices that impact women's reproductive rights and contribute to, cause or constitute violence against women*, (55th Sess.), E/CN.4/1999/68/Add.4 (1999), [para. 51].

⁴³ Méndez, Juan. 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; See also: Nowak, M. (2008) *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*; UN General Assembly, UN Doc. A/HRC/7/3; Committee on the Rights of the Child (2011) *General Comment No. 13: Article 19: The right of the child to freedom from all forms of violence*; UN Doc. CRC/C/GC/13.

⁴⁴ A State's obligation to prevent torture applies not only to public officials, such as law enforcement agents, but also to doctors, health-care professionals and social workers, including those working in private hospitals, other institutions and detention centres. As underlined by the Committee against Torture, the prohibition of torture must be enforced in all types of institutions and States must exercise due diligence to prevent, investigate, prosecute and punish violations by non-State officials or private actors. See: Méndez, Juan. E. (2013) UN.Doc A/HRC/22/53.

⁴⁵ Frohmader, C. (2013) 'Dehumanised: The Forced Sterilization of Women and Girls with Disabilities in Australia'. *Submission to the Senate Inquiry into the involuntary or coerced sterilization of people with disabilities in Australia*. Women With Disabilities Australia (WWDA), Hobart, Tasmania. ISBN: 978-0-9876035-0-0

⁴⁶ Community Affairs References Committee, *Involuntary or coerced sterilization of people with disabilities in Australia*. July 2013, Available at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=clac_ctte/involuntary_sterilization/first_report/index.htm

⁴⁷ See the Senate Inquiry Submissions online at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Involuntary_Sterilization/Submissions

⁴⁸ Community Affairs References Committee, *Involuntary or coerced sterilization of people with disabilities in Australia*. July 2013, Available at:

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=clac_ctte/involuntary_sterilization/first_report/index.htm

⁴⁹ Frohmader, C. (2014) *Fact Sheet: Sterilization*. Prepared for the Committee against Torture, Review of the combined fourth and fifth periodic reports of Australia, 53rd sess, UN doc CAT/C/AUS/CO/4-5 (23 December 2014).

⁵⁰ Community Affairs References Committee, *Involuntary or coerced sterilization of people with disabilities in Australia*. July 2013, Available at:

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⁵² See: Frohmader, C. (2013) OpCit.

⁵³ Frohmader, C. (2014) *Fact Sheet: Sterilization*. OpCit.

⁵⁴ CRPD/C/AUS/CO/1

⁵⁵ CRPD/C/AUS/CO/1

⁵⁶ Frohmader, C. (2014) *Fact Sheet: Sterilization*, OpCit. Community Affairs References Committee, *Involuntary or coerced sterilization of people with disabilities in Australia*. July 2013, Available at:

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⁵⁷ Dowse et al., (2013) OpCit,

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- ⁶¹ Frohmader, C. and Sands, T. (2015) OpCit.
- ⁶² Council of Australian Governments (2011) *National Plan to Reduce Violence against Women and their Children 2010-2022*, Canberra.
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- ⁶⁴ Pease, B. (2015), *Critical gender theory, gender inequality and men's violence against women: An Our Watch think piece paper*. Paper prepared for Our Watch. Available in Our Watch, Australia's National Research Organisation for Women's Safety (ANROWS) and VicHealth (2015) *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia*, Our Watch, Melbourne, Australia.
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- ⁶⁸ Frohmader, C. and Sands, T. (2015) OpCit.
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- ⁷⁰ Commonwealth of Australia (November 2015) Senate Community Affairs References Committee *'Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability'*. Canberra.
- ⁷¹ Ibid.
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