

Concluding Observations: UN Report on Australia’s Review of the Convention on the Rights of Persons with Disability (CRPD), 24 September 2019.

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Introduction

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

Positive aspects

4. The Committee appreciates the adoption of the following legislative, policy and administrative measures:
 - a) The National Disability Insurance Scheme Act 2013;
 - b) States' and territories' legislation and policies such as Disability Inclusion Act, Disability Services Act, Disability Justice Plans and Disability Action Plans;
 - c) The disability inclusion strategy, Development for all 2015-2020, for development assistance;
 - d) The new National Disability Employment Framework;
 - e) The Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability;
 - f) The establishment of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability in 2019;
 - g) The establishment of the National Disability and Carers Advisory Council;
 - (h) The commitment to introduce seven percent employment target for persons with disabilities in the public service;
 - h) The endorsement of a new national disability data set bringing together commonwealth, state and territory data from across multiple sources and systems to provide a more complete picture of the needs of people with disabilities.

Principal areas of concern and recommendations

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

5. The Committee is concerned about:

- a) The insufficient harmonization of the domestic legal framework with the Convention;
- b) The lack of progress to review and withdraw the interpretive declarations on articles 12, 17 and 18 by the State party;
- c) The serious delays to release the third Implementation Plan under National Disability Strategy (NDS) 2010-2020;
- d) The weak mechanisms and limited funding under the NDS and National Disability Agreement (NDA) for full and effective engagement of persons with disabilities through their representative organisations in the policy development, implementation and monitoring of actions relating to the Convention;
- e) Disability assessment to be eligible to receive services through the National Disability Insurance Scheme (NDIS) still relying heavily on the medical model of disability and not providing older persons with disabilities, persons with disabilities from culturally and linguistically diverse (CALD) or Indigenous backgrounds and persons with intellectual or psychosocial disabilities with equal opportunities;
- f) Inaccessibility of the NDIS due to the complex, complicated procedures, limited publically available and accessible information, and lack of services in remote areas;
- g) The lack of sustainably, adequately resourced continuous, individual and independent advocacy programmes.

6. The Committee recommends that the State party:

- a) Fully harmonize domestic legislation with the Convention, carrying out disability rights impact assessments on legislative changes that may impact the rights of persons with disabilities;
- b) Review and withdraw the Interpretative Declarations on articles 12, 17 and 18 of the Convention;
- c) Roll out the third Implementation Plan for the NDS, and ensure that the NDA and the next NDS have active participation of and in close consultation with diverse organizations of persons with disabilities, adequate resources, implementation plan with measurable goals and robust monitoring, formalised performance reporting framework, evaluation, governance and accountability requirements, including by implementing the recommendations made by the Productivity Commission;
- d) Review disability assessment criteria for support schemes under the NDIS and align them with the human rights model of disability, ensuring adequate support for older persons with disabilities, CALD or Indigenous persons with disabilities, and persons with intellectual or psychosocial disabilities;
- e) Simplify, clarify and make the NDIS more transparent with publically available and accessible information and ensure that it meets the diverse and intersecting requirements of persons with disabilities in all areas;
- f) Ensure that all persons with disabilities have access to continuous, sustainable and adequately resourced individual and independent advocacy programmes, particularly outside the NDIS.

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

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

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

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

10. The Committee, in line with its general comment no. 6 (2018) on the equality and non-discrimination, reiterates its previous recommendation (CRPD/C/AUS/CO/1, para. 15) that the State party strengthen anti-discrimination laws, particularly the DDA, to:

- a) Address and prohibit systemic, intersectional and multiple forms of discrimination, recognizing discrimination on a single or on multiple and/or intersectional characteristics and allowing for systemic complaints, representative and group actions and a sanction mechanism for a lack of access and for discriminatory behaviour;
- b) Support persons with disabilities in their own decisions, actions, and filing complaints, especially persons with high support requirements, and persons with intellectual or psychosocial disabilities.

Women with disabilities (art. 6)

11. The Committee is concerned about:

- a) The low percentage of women and girls with disabilities, particularly of Indigenous background, having access to services under NDIS;
- b) Limited opportunities for women and girls with disabilities to participate in the development of policies regarding the rights of women and gender equality.

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

- a) Facilitate women and girls with disabilities', particularly of Indigenous background, access to services under NDIS;
- b) Adequately support organizations and networks of women and girls with disabilities, particularly those representing Aboriginal and Torres Strait Islander women with disabilities, to engage in all initiatives to promote gender equality and ensure their effective participation in the development of policies for gender equality and the advancement of women and girls.

Children with disabilities (art. 7)

13. The Committee is concerned about:

- a) The lack of focus on the rights of children with disabilities in the national plan of action for the realisation of the rights of the child;
- b) The lack of access to early intervention mechanisms for children with disabilities;
- c) The lack of disability and age appropriate assistance for children with disabilities to participate and express their views;
- d) The lack of culturally suitable support for Indigenous children with disabilities and their families;
- e) The situation of refugee and asylum seeking children with disabilities kept in detention facilities in the State party and offshore.

14. The Committee recommends that the State party:

- a) Include a focus on the rights of children with disabilities in any national plan of action for the realisation of the rights of the child;
- b) Ensure access for children with disabilities to quality and human rights-based early intervention mechanisms;
- c) Amend all legislation to require that children are provided with age-appropriate support and accommodations to express their views in all matters that affect their rights or interests;
- d) Fund and resource culturally suitable support for Indigenous children with disabilities and their families, in the local community;
- e) Urgently remove all refugee and asylum seeking children, particularly children with disabilities and their families from detention facilities and ensure the provision of individualized support and recognize the denial of reasonable accommodation as a form of discrimination.

Awareness-raising (art. 8)

15. The Committee is concerned about the lack of concerted efforts at all levels, and the low level of participation of persons with disabilities, particularly women, Aboriginal and Torres Strait Islander, CALD, LGBTIQ+ persons with disabilities, through their representative organizations to promote awareness-raising efforts, including campaigns, promoting a positive image and awareness of the contribution of persons with disabilities in line with the Convention.

16. The Committee recommends that the State party develop a national government strategy to promote a positive image and awareness of the human rights of all persons with disabilities, and ensure the participation of all persons with disabilities, particularly women, Aboriginal and Torres Strait Islander, CALD, LGBTIQ+ persons with disabilities, in the development and delivery of all awareness raising activities.

Accessibility (art. 9)

17. The Committee is concerned about:

- a) The lack of a national framework for reporting compliance with the Disability Standards for Accessible Public Transport; the Disability (Access to Premises-Buildings) Standards; and the National Standards for Disability Services;
- b) The significant proportion of existing inaccessible built environment and the lack of mandated national access requirements for housing in the National Construction Code;

- c) The lack of comprehensive and effective measures to implement the full range of accessibility obligations under the Convention, including of information and communication technology and systems.

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

- a) Establish and enact a national framework for mandatory compliance reporting of the Disability Standards for Accessible Public Transport; the Disability (Access to Premises-Buildings) Standards; and the National Standards for Disability Services;
- b) Amend the Federal law with mandatory rules on access for all new and extensively modified housing;
- c) Take the necessary legislative and policy measures, such as public procurement criteria, to implement the full range of accessibility obligations under the Convention, including regarding information and communication technology and systems, and ensuring effective sanction measures for non-compliance.

Right to life (art. 10)

19. The Committee is concerned about:

- a) The significantly lower life expectancy of persons with disabilities, particularly persons with intellectual disabilities and within the Indigenous communities, than that of the general population;
- b) A significant number of persons with disabilities expressing suicidal ideation, particularly within the Indigenous communities, due to, inter alia, lack of support, poverty and isolation;
- c) The high rate of premature, unexpected but avoidable deaths among persons with disabilities in care settings.

20. The Committee recommends that the State party:

- a) Address the low life expectancy of persons with disabilities, especially persons with intellectual disabilities and persons with disabilities from Indigenous communities;
- b) Ensure the National Mental Health and Suicide Prevention Plan includes targeted measures for persons with disabilities and develop, in consultation with Aboriginal and Torres Strait Islander persons with disabilities, culturally appropriate measures to prevent, identify and address the high rate of suicides among those populations, with targeted measures for children with disabilities;
- c) Ensure a comprehensive approach to suicide prevention among persons with disabilities in the training of all professionals working with and for persons with disabilities including health, social, education and community workers.

Situations of risk and humanitarian emergencies (art. 11)

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

- a) Nationally consistent emergency management standards that ensure access to disability-specific and disability-responsive support during emergencies;
- b) A mechanism for engagement with organizations of persons with disabilities in the implementation of the Sendai Framework at the national level and its reporting process.

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

Equal recognition before the law (art. 12)

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

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

- a) Repeal any laws and policies, and end practices or customs, which have the purpose or effect of denying or diminishing recognition of any person with disabilities as a person before the law;
- b) Implement a nationally consistent supported decision-making framework, as recommended in the Australian Law Reform Commission's 2014 report, "Equality, Capacity and Disability in Commonwealth Laws".

Access to justice (art. 13)

25. The Committee is concerned about:

- a) The fact that only some states and territories have passed legislation to support equal participation of persons with disabilities in the jury system while the rest and the commonwealth government have not done so;
- b) The lack of nationally consistent Disability Justice Plans across governments, to ensure that persons with disabilities are supported to access the same legal protections and redress as the rest of the community, particularly for those with intellectual or psychosocial disabilities whose reasonable and procedural accommodations are not adequately met;
- c) The fact that legislation still provides for persons with disabilities as being unfit to plead;
- d) The over representation of convicted young persons with disabilities in the youth justice system, especially male youth from Indigenous communities;
- e) Ongoing use of substitute decision-making to assist "persons with disabilities unable to navigate the legal system by themselves";
- f) Absence of national data disaggregated by disability through all the stages of the criminal justice system, including on the number of persons unfit to plead who are committed to custody in prison and other facilities.

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

- a) Develop legislation in all states on equal participation of persons with disabilities in the jury system;
- b) Develop nationally consistent Disability Justice Plans across governments to ensure that persons with disabilities, particularly those whose reasonable and procedural accommodations are not adequately met, are supported in accessing the same legal protections and redress as the rest of the community;

- c) Bring all state, territory and federal legislation, including criminal law, and policy in compliance with the Convention to ensure due process guarantees for all persons with disabilities and ensure a review of the legal situation of persons whose equal recognition before the law is restricted and have been declared unfit to stand to trial;
- d) Address the over-representation of Indigenous young people in the youth justice system and implement the recommendations from the National Inquiry into the Incarceration Rate of Indigenous Peoples;
- e) Eliminate substitute decision-making and provide gender and culture specific individualized support, including psychosocial support for persons with disabilities in the justice system, and the provision of accessible information and community based sentencing options;
- f) Ensure that training modules on working with persons with disabilities and the Convention are incorporated into mandated training programs for police, prison officers, lawyers, judicial officers, judges and court staff;
- g) Collect data disaggregated by disability, age, gender, location and ethnicity at all stages of the criminal justice system, including on the number of persons unfit to plead who are committed to custody in prison and other facilities.

Liberty and security of the person (art. 14)

27. The Committee is seriously concerned about:

- a) Legislative frameworks, policies and practices which result in the arbitrary and indefinite detention and forced treatment of persons with disabilities, disproportionately experienced by Indigenous persons with disabilities, persons with intellectual or psychosocial disabilities;
- b) Ongoing practice of compulsory treatment for persons with “cognitive and mental impairment”, including through indefinite detention in psychiatric centers, despite recommendations of the Senate Community Affairs References Committee’s 2016 report on indefinite detention of persons with “cognitive and psychiatric impairment”;
- c) The commitment of persons with intellectual or psychosocial disabilities to custody, often indefinitely or for terms longer than those imposed in criminal convictions;
- d) The absence of data on the number of persons found not guilty due to “cognitive or mental health impairment” indefinitely detained and a number of cases on an annual basis;
- e) The practice of retaining and restraining children with disabilities in adult settings.

28. The Committee, recalling its guidelines on article 14 of the Convention (2015) see report of the Committee on the Rights of Persons with Disabilities Supplement No. 55 (A/72/55), annex I), urges the State party to:

- a) Repeal any law and policy and cease any practice or custom that enables deprivation of liberty on the basis of impairment, and forced medical interventions on persons with disabilities, particularly Indigenous persons with disabilities;
- b) Implement the recommendations from the 2016 Senate Inquiry Report into the Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia;
- c) End committing persons with disabilities to custody and to indefinite terms or to terms longer than those imposed in criminal convictions;
- d) Collect data on the number of persons indefinitely detained and a number of cases on an annual basis, disaggregated by nature of offence, time of detention, disability, Aboriginal and other origin, sex, age and jurisdiction, with the aim to review their detention;

- e) End the practice of detaining and restraining children with disabilities in any settings.

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

29. The Committee is seriously concerned about:

- a) Legislation, policies and practices that allow for psychotropic medication, physical restraint and seclusion under the guise of “behaviour modification” or restrictive practices against persons with disabilities, including children, in any setting, such as justice, education, health, psychosocial and aged care facilities;
- b) The reported abuse of Indigenous young persons with disabilities by fellow prisoners and staff, prolonged solitary confinement, particularly of persons with intellectual or psychosocial disabilities, and a lack of safe and accessible channels for complaints;
- c) Lack of engagement with persons with disabilities through their representative organizations regarding the designation and establishment of a disability inclusive National Preventive Mechanism (NPM).

30. The Committee urges that the State party:

- a) Establish a nationally consistent legislative and administrative framework for the protection of all persons with disabilities, including children, from psychotropic medication, physical restraint and seclusion under the guise of “behaviour modification” and the elimination of restrictive practices, including domestic discipline/corporal punishment, in all settings;
- b) Introduce policies and measure to protect persons with disabilities, including Indigenous youth with disabilities and persons with intellectual or psychosocial disabilities, from abuse by fellow prisoners and staff and ensure that persons with disabilities cannot be held in solitary confinement;
- c) Ensure that organisations of persons with disabilities can effectively engage in the establishment and work of the national preventive mechanism.

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

31. The Committee is concerned about:

- a) The lack of additional oversight, complaint and redress mechanisms needed for persons with disabilities who are not eligible for NDIS, older persons with disabilities and particularly women with disabilities;
- b) The lack of resources and redress scheme for the Royal Commission into Violence, Abuse, Exploitation and Neglect of Persons with Disabilities;
- c) Lack of implementation of the recommendations of the Australian Human Rights Commission’s report A Future without Violence;
- d) The lack of an explicit reference to women and girls with disabilities in the National Plan to Reduce Violence against Women and their Children (2010-2022);
- e) Insufficient expertise and structural barriers within domestic violence, sexual assault and crisis services to adequately support women and girls with disabilities;
- f) Limited data collection instruments on violence against women and girls with disabilities.

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

Protecting the integrity of the person (art. 17)

33. The Committee is seriously concerned about:
- a) Ongoing practice of forced sterilization, forced abortion and forced contraception of persons with disabilities, particularly women and girls, without their free and informed consent, which remains legal;
 - b) Unregulated use of involuntary surgery on infants and children born with variations in sex characteristics, and other intrusive and irreversible medical interventions, without their informed consent or evidence of necessity.

34. The Committee urges that the State party to:
- a) Review and amend the Family Law Rules 2004 relating to Medical Procedure Applications in line with the Convention and adopt uniform legislation prohibiting, in the absence of free and informed consent, the sterilization of adults and children, the administration of contraception and abortion procedures on women and girls with disability;
 - b) Adopt clear legislative provisions that explicitly prohibit the performance of unnecessary, invasive and irreversible medical interventions, including surgical, hormonal or other medical procedures on intersex children before they reach the legal age of consent, the electroconvulsive therapy, without their free and informed consent of the person concerned; also provide adequate counselling and support for the families of intersex children and redress to intersex persons having undergone such medical procedures.

Liberty of movement and nationality (art. 18)

35. The Committee is concerned about:
- a) The migration and asylum legislation, such as the Migration Act (1958) and the health requirement in Migration Regulations (1994), which allow for discrimination of persons with disabilities in the asylum and migration procedures;
 - b) The Disability Discrimination Act 1992 providing an exemption for certain provisions within the Migration Act 1958 which results in exclusion of persons with disabilities;
 - c) The 10-year qualifying period for migrants with non-permanent visa to access the Age and Disability Support Pensions;

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

36. The Committee recommends that the State party:

- a) Review and amend migration laws and policies to ensure persons with disabilities do not face discrimination in any of the formalities and procedures relating to migration and asylum, especially remove the exemption in the Disability Discrimination Act 1992 to certain provisions of the Migration Act;
- b) Remove the 10-year qualifying period for migrants to access the Age and Disability Support Pensions;
- c) Cease transfers of refugees and asylum seekers, particularly persons with disabilities to Nauru, Papua New Guinea and other “regional processing countries” as requested by the UNHCR, in the Fact Sheet on the Protection of Australia’s so-called “Legacy caseload” asylum-seekers of 1 February 2018, and establish a minimum standard of healthcare and adequate support for persons with disabilities held in immigration detention.

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

37. The Committee is concerned about:

- a) The fact that the specialist disability accommodation (SDA) framework facilitates and encourages the establishment of residential institutions and will result in persons with disabilities having to live in particular living arrangements to access NDIS supports;
- b) The lack of appropriate, affordable, and accessible social housing, which severely limits the capacity of persons with disabilities to choose their place of residence;
- c) The Younger People in Residential Aged Care—Action Plan only outlines plans to reduce the number of persons, including persons with disabilities, under the age of 65 years living in aged care facilities, but does not end the practice.

38. The Committee recommends that the State party:

- a) Develop a national framework for the closure of all disability-specific residential institutions, and the prevention of trans-institutionalisation including addressing how persons with disabilities not eligible for the NDIS can be supported to transition to live independently in the community;
- b) Increase the range, affordability and accessibility of public and social housing for persons with disabilities, including by implementing a quota for accessible social housing and by developing regulations and standards to guarantee the progressive application of universal design principles in accessible housing;
- c) Revise the Younger People in Residential Aged Care—Action Plan to ensure that no person aged under 65 years should enter or live in residential aged care by 2025.

Personal mobility (art. 20)

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

40. The Committee recommends that the State party, in partnership with Indigenous persons with disabilities, their representative organizations and communities, develop locally relevant solutions to address the underlying structural obstacles that can preclude

the use of aids and equipment in Indigenous communities and/or remote areas.

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

41. The Committee is concerned that there is no legally binding information and communication standards that require information to be fully accessible beside the provision under the Disability Discrimination Act.

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

Respect for home and the family (art.23)

43. The Committee is concerned about:

- a) Parents with disabilities having their child more likely removed, often on the basis of disability and by the lack of support in their exercise of parental responsibilities for their children;
- b) The reported discrimination, particularly of women with disabilities and LGBTIQ+ persons with disabilities in accessing assisted reproductive technologies.

44. The Committee recommends that the State party:

- a) Ensure no separation of children from parents on the basis of the disability of either the child or one or both of the parents;
- b) Adopt comprehensive and gender and culturally specific parenting and family support measures for parents with disabilities;
- c) Ensure that women with disabilities and LGBTIQ+ persons with disabilities have equal access to assisted reproductive technologies.
Education (art. 24)

45. The Committee is concerned about:

- a) The lack of implementation of many of the recommendations of the 2015 review of the Disability Standards for Education (2005);
- b) The significant increase of segregated education, seclusion, isolation and lack of age appropriate settings for students with disabilities, and insufficient funding for inclusive education in mainstream schools;
- c) No national disaggregated data on students with disabilities, including on the use of restrictive practices and bullying.

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

- a) Conduct a robust review, in consultation with organizations of persons with disabilities, of the Disability Standards for Education (2005), implement the recommendations in the new standards and develop a national Action Plan for Inclusive Education;

- b) Address the increasing rate of segregation, seclusion and isolation, lack of age appropriate settings for students with disabilities, in particular Aboriginal and Torres strait Islanders, at all levels and redirect adequate resources to a nationwide inclusive education system for all students;
- c) Expand the collection of data on the numbers of students with disabilities, who do not qualify for an adjustment, are unable to enrol in local mainstream schools, educational attainment and completion, suspension and expulsion rates and the use of restrictive practices and bullying.

Health (art. 25)

47. The Committee is concerned about significantly poorer health and access to information and to adequate, affordable and accessible health services and equipment for persons with disabilities and children with disabilities, particularly for persons with disabilities living in remote areas, Indigenous persons with disabilities, persons with intellectual or psychosocial disabilities, persons with disabilities living in institutions, children and women with disabilities, compared to the general population.

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

- a) All persons with disabilities and children with disabilities have access to information, on an equal basis with others, and to affordable, accessible, quality and culturally-sensitive health services and equipment, including sexual and reproductive health and mental health services, with particular consideration for persons with disabilities living in remote areas, Indigenous persons with disabilities, persons with intellectual or psychosocial disabilities, persons with disabilities living in institutions, and women and children with disabilities;
- b) All health care services are based on a non-discriminatory, human rights model to disability, and on the basis of free and informed consent of the person concerned prior to any medical treatment;
- c) Health-care practitioners receive training on the human rights model of disability to enhance their capacity to provide accessible, quality health care to persons with disabilities.

Work and employment (art. 27)

49. The Committee is concerned about:

- a) The narrow and incomplete review of the National Employment Framework for People with Disability as well as the lack of clear measures to reform the Disability Employment Services;
- b) Ongoing practice of segregated employment through Australian Disability Enterprises (ADEs) with sub-minimum wage payment;
- c) Low labour force participation and continuance of employment of persons with disabilities, particularly women with disabilities, Aboriginal and Torres Strait Islander persons with disabilities, persons with disabilities especially CALD, refugee and asylum seeking persons with disabilities due to numerous systemic barriers.

50. The Committee recommends that the State party:

- a) Undertake measures to reform Disability Employment Services and develop a national disability employment strategy that incorporates the recommendations from the Willing to Work Inquiry, and contains targeted gender-sensitive measures;
- b) Undertake a comprehensive review of Australian Disability Enterprises (ADEs) to adhere to Article 27 of the Convention and provide services to transition of persons with disabilities from sheltered employment into open inclusive and accessible forms of employment, ensuring equal remuneration for work for equal value;
- c) Implement measures to address systemic and structural barriers experienced by persons with disabilities, particularly by women, Aboriginal and Torres Strait Islander persons, CALD, refugee and asylum seeking persons with disabilities.

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

51. The Committee is concerned about:

- a) A significant proportion of persons with disabilities living either near or below the poverty line;
- b) The eligibility restrictions for the Disability Support Pension and the inadequate income support payments to persons with disabilities, such as the Newstart unemployment payment;
- c) The limited consideration of persons with disabilities, particularly Indigenous persons with disabilities, in poverty and homelessness reduction strategies including the National Affordable Housing Agreement and National Partnership Agreement on Homelessness.

52. The Committee recommends that the State party:

- a) Develop a national poverty reduction plan that is inclusive and accessible to all persons with disabilities and prioritize the realisation of the right to an adequate standard of living and social protection for Indigenous persons with disabilities;
- b) End the eligibility restrictions for the Disability Support Pension, increase the rate of Newstart unemployment payment and other income support payments to ensure persons with disabilities have access to an adequate standard of living;
- c) Ensure that persons with disabilities are included as a priority cohort in the implementation of poverty and homelessness reduction programmes, including the National Affordable Housing Agreement and the National Partnership Agreement on Homelessness.

Participation in political and public life (art. 29)

53. The Committee is concerned that electoral laws provide that persons of 'unsound mind' are not entitled to have their names on the electoral roll or to vote in elections and may be removed from the electoral roll following objection. It is also concerned that the electoral process is not fully accessible and does not guarantee secret voting rights of persons with disabilities. The Committee is also concerned about the lack of information on the representation of women with disabilities, particularly Indigenous women with disabilities, in political and public life.

54. The Committee reiterates its previous recommendation (CRPD/C/AUS/CO/1, para. 52) on ensuring the right of persons with disabilities to vote in elections on an equal basis with others and that the State party develop measures with adequate resources to ensure full accessibility of electoral processes with full guarantee of secret voting rights. It further recommends that the State party implement the Concluding Observations of the Committee on the Elimination of Discrimination Against Women (CEDAW/C/AUS/CO/8,

para. 36) to ensure representation and accelerate the participation of women with disabilities, particularly Indigenous women with disabilities, in political and public life at all levels.

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

55. The Committee is concerned about the lack of specific measures being put in place to effectively implement the Marrakesh Treaty and the insufficient measures to promote that persons with disabilities, particularly children, participate in cultural life, recreation, leisure and sport, on an equal basis with others.

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

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

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

58. The Committee recommends that the State party, in conjunction with the Office of the National Data Commissioner, develop a national disability data framework to ensure appropriate, nationally consistent measures for the collection and public reporting of disaggregated data across the full range of obligations contained in the Convention, especially with regard to women, children and Indigenous persons with disabilities.
International cooperation (art. 32)

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

60. The Committee recommends that the State party:

- a) Adopt measures to ensure full and effective participation of persons with disabilities through their representative organizations in the design, implementation, monitoring and evaluation of programmes and projects developed in international cooperation efforts, such as the Development for All Strategy, in line with the Committee's General Comment No. 7 (2018);
- b) Adopt a development policy in line with the Convention that incorporates its principles and values into all the State party's development cooperation policies and programmes with measurable and tangible targets and indicators and ensure that international cooperation reaches persons with disabilities both by targeting them and mainstreaming their concerns;
- c) Mainstream disability rights and requirements in the national implementation and monitoring of the 2030 Agenda for Sustainable Development and the Sustainable

Development Goals.

National implementation and monitoring (art. 33)

61. The Committee is concerned about:

- a) The lack of sufficient resources allocated to effectively implement the National Disability Strategy;
- b) The existing legal framework limiting the scope and power of the Australian Human Rights Commission to perform the task of effective and independent monitoring of the implementation of the Convention;
- c) The lack of effective monitoring under the NDS as an overarching policy framework;
- d) The lack of a formal mechanism and sustainable funding for full and effective participation of persons with disabilities through their representative organizations in all processes of implementation and monitoring of the Convention.

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

- a) Ensure sufficient resources for effective implementation of the NDS;
- b) Revise existing laws or enact new laws, including a national comprehensive human rights law, which expand and strengthen the scope and power of the Australian Human Rights Commission to perform the task of independent monitoring of the implementation of the Convention, in line with article 33 (2) of the Convention and the Committee's general comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention;
- c) Establish a formal monitoring mechanism under the NDS, including the Office of Disability Strategy as recommended by the Senate Standing Committee on Community Affairs in 2017, ensuring effective coordination between the federal and State level;
- d) Establish a formal mechanism and ensure sustainable and adequate funding for meaningful engagement of persons with disabilities and their representative organizations in the implementation and monitoring of the Convention.

Follow-up

Dissemination of information

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

64. The Committee requests the State party to implement the recommendations contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, the judiciary and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities, the private sector and the media, using modern social communication strategies.

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

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

Next periodic report

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