



Women  
With  
Disabilities  
Australia  
(WWDA)

Winner, National Human Rights Award 2001  
Winner, National Violence Prevention Award 1999  
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Certificate of Merit, Australian Crime & Violence Prevention Awards 2008  
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Nominee, National Disability Awards 2017  
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Nominee, UN Millennium Peace Prize for Women 2000

### **Our Watch Project Advisory Team**

GPO Box 24229  
Melbourne VIC 3001

Via Email to:

[helen@keleherconsulting.com.au](mailto:helen@keleherconsulting.com.au)

Cc: [ceo@ourwatch.org.au](mailto:ceo@ourwatch.org.au)

Cc: [ek2maquire@gmail.com](mailto:ek2maquire@gmail.com)

Cc: [ministerforwomen@pmc.gov.au](mailto:ministerforwomen@pmc.gov.au)

Cc: [senator.payne@aph.gov.au](mailto:senator.payne@aph.gov.au)

Cc: [senator.ruston@aph.gov.au](mailto:senator.ruston@aph.gov.au)

23 May 2021

Dear Our Watch Project Advisory Team,

**Re: Feedback on the Consultation draft of '*Change the story 2nd edition: A shared framework for the primary prevention of violence against women in Australia*'**

We write in response to the Our Watch Consultation draft of '*Change the story 2nd edition: A shared framework for the primary prevention of violence against women in Australia*' (the draft framework).<sup>1</sup> WWDA thanks the Consultants, and the Our Watch Project Advisory Team for the opportunity to provide this feedback and trusts that you will take into consideration our concerns about what we perceive as serious limitations of the draft framework in its current form.

As you would be aware, WWDA is the only national Disabled People's Organisation (DPO)<sup>2</sup> for women, girls, feminine identifying, and non-binary people with all types of disability in Australia;

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<sup>1</sup> Our Watch (2021) *Change the story 2nd edition: A shared framework for the primary prevention of violence against women in Australia*.

<sup>2</sup> DPOs are organisations made up and governed by people with disability for people with disability

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and uses the term 'women and girls' to refer to our members. WWDA is managed and run by women with disability and represents more than two million disabled women and girls in Australia.

This brief letter from WWDA does not endeavour to respond to the entire '*Change the Story 2nd edition*' framework. Regrettably, our organisation does not have the capacity at this time to provide detailed feedback. Rather, this letter aims to highlight just some key issue areas that we would like Our Watch to consider for the purposes of finalising the '*Change the Story 2nd edition*'.

### **Limitations in the conceptualisation of violence against women**

Whilst the draft framework acknowledges that violence manifests in different forms for marginalised and disadvantaged groups of women, including women with disability, the draft framework appears to primarily focus on intimate-partner domestic and family violence, and sexual assault – framed in an outdated understanding of what constitutes violence against women.

Conceptualising 'violence against women' principally as 'domestic and/or family violence' and and/or 'sexual violence/assault', omits structural and institutional forms of gender-based violence related to law, the state and culture that women and girls with disability commonly experience – such as forced sterilisation, forced abortion, forced contraception, denial of legal capacity, forced treatment, restrictive practices, seclusion, restraint, indefinite detention, and forced and coerced marriage.<sup>3</sup> In addition, it also excludes many of the settings and spaces in which women and girls with disability experience violence. Some of these settings for example, include prisons, disability care settings, group homes, and other forms of institutional and segregated settings.

It is, therefore, very disappointing to WWDA that the draft framework focuses on a narrow conceptual understanding of 'violence against women' - which does not reflect contemporary

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<sup>3</sup> 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.

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understandings of what constitutes violence against women nor the complexity of the myriad of forms it takes, and the vast settings and contexts in which it occurs. WWDA has long argued that a woman's 'place of residence' and/or 'setting' and/or 'type of violence' should never exclude them from national policy frameworks or initiatives to prevent *all* forms of violence against women. For example, the first Our Watch *Framework for the primary prevention of violence against women in Australia* (*Change the Story*), excluded ableist gender-based and lawful violence experienced by women with disability, including forced sterilisation and violence against women with disability in institutional, residential and other formal care settings.<sup>4</sup> In attempting to justify the omission of these types of violence and the settings in which they occur, the 2015 *Change the Story* Framework, stated (in part):

*'The framework does not include strategies specifically aimed at preventing these particular forms of violence and supports the need for specialised approaches based on an understanding of the complex drivers of and contributors to these practices...'*

With respect, this approach, in contemporary global and Australian legislative and policy contexts of addressing all forms of violence against women, is unacceptable. The epidemic of violence against persons with disability, including its gendered aspects, is currently being interrogated through the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability*.<sup>5</sup> The Terms of Reference for the Royal Commission, specifically recognise the gendered nature of violence against women with disability, articulated at Term of Reference G.<sup>6</sup> It is no longer acceptable for national policy frameworks that aim to prevent violence against women, to exclude violence perpetrated against disabled women and girls, by assuming that violence against women with disability is somehow a responsibility of only the disability policy and service sector.

While the draft framework acknowledges that the prevention of violence against (all) women is a clear responsibility of governments and public authorities under international human rights law; the United Nations definition used in the draft framework is now over 14 years old. In 2017, after recognising that States parties were consistently failing to understand what constitutes gender-

<sup>4</sup> 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. See page: 19, footnotes.

<sup>5</sup> <https://disability.royalcommission.gov.au/>

<sup>6</sup> DRC Terms of Reference

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based violence against women, and as an effort to accelerate the elimination of **all** forms of violence against women, the CEDAW Committee published its revised and updated General Comment on gender-based violence against women (General Recommendation 35).

In defining and articulating what constitutes gender-based violence against women, the CEDAW Committee clarified that:

*"Gender-based violence against women is used as a more precise term that makes explicit the gendered causes and impacts of the violence; (and that) such violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering to women, threats of such acts, harassment, coercion and arbitrary deprivation of liberty.....It manifests in a continuum of multiple, interrelated and recurring forms, in a range of settings....."*

The CEDAW Committee made explicit that:

*"Gender-based violence against women occurs in all spaces and spheres of human interaction, whether public or private, including in the contexts of the family, the community, public spaces, the workplace, leisure, politics, sport, health services and educational settings, and the redefinition of public and private through technology-mediated environments, such as contemporary forms of violence occurring online and in other digital environments. In all those settings, gender-based violence against women can result from acts or omissions of State or non-State actors.....including private persons and armed groups....."*

Importantly, the CEDAW Committee made explicit that:

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<sup>7</sup> United Nations Committee on the Elimination of Discrimination against Women (2017) [General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19](#). UN Doc No: CEDAW/C/GC/35.

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*"Violations of women's sexual and reproductive health and rights, such as forced sterilizations, forced abortion, forced pregnancy, criminalisation of abortion, denial or delay of safe abortion and post-abortion care, forced continuation of pregnancy, abuse and mistreatment of women and girls seeking sexual and reproductive health information, goods and services, are forms of gender-based violence that, depending on the circumstances, may amount to torture or cruel, inhuman or degrading treatment."<sup>8</sup>*

In the context of the revised United Nations definition of gender-based violence, WWDA therefore urges Our Watch to review its conceptualisation of violence against women in the draft (including from the beginning of the document and throughout the document). Examples of specific sections/paragraphs that WWDA has identified as needing revision include, but should not be limited to, those on pages 5, 12, 19, 21 and 37.

### **Omission of forced contraception, abortion, sterilisation, and other forms of reproduction coercion.**

In addition, but also not un-related to the limitations of the definition of violence against women used in the draft framework (as already outlined), WWDA is concerned about the lack of recognition of (and inclusion of) acts of reproductive violence that are commonly forced upon women and girls with disability, including forced contraception and forced sterilisation.

For for more than 15 years, United Nations treaty monitoring bodies, the UN General Assembly, UN Special Procedures and international medical bodies<sup>9</sup> have categorically confirmed that forced sterilisation of women and girls with disability is a clear breach of some of the most fundamental human rights (including the right to freedom from violence); and have made it clear that the

<sup>8</sup> United Nations Committee on the Elimination of Discrimination against Women (2017) [General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19](#). UN Doc No: CEDAW/C/GC/35.

<sup>9</sup> See for e.g.: CRPD/C/AUS/QPR/2-3; E/C.12/AUS/CO/5; A/C.3/72/L.18/Rev.1; A/HRC/38/47/ Add.1; CCPR/C/AUS/CO/6; CEDAW/C/AUS/CO/8; CRC/C/15/Add.268; CRC/C/AUS/ CO/4; A/HRC/17/10; CEDAW/C/AUL/CO/7; CAT/C/AUS/CO/4-5; A/HRC/WG.6/10/L.8; CRPD/C/AUS/CO/1; A/HRC/31/14; A/HRC/22/53; CCPR/C/AUS/Q/6; FIGO (International Federation of Gynaecology and Obstetrics), Female Contraceptive Sterilization, available at: <http://wwda.org.au/wp-content/uploads/2013/12/FIGOGuidelines2011.pdf> See also: World Medical Association (WMA) in conjunction with the International Federation of Health and Human Rights Organizations (IFHHRO) (2011) Global Bodies call for end to Forced Sterilization: Press Release, 5 September 2011, available at: <http://wwda.org.au/issues/sterilise/sterilise2011/sterilwma2011/>

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Australian Government must implement legislation prohibiting sterilisation of children, and of adults without their prior, fully informed and free consent.<sup>10</sup>

Whilst the draft framework does mention (on page 21) that women with disability experience specific forms of violence such as 'reproductive coercion and forced sterilisation',<sup>11</sup> it does not provide any reference to the Australian Government's obligations to reform legislation that continues to allow for sterilisation of disabled women and girls,<sup>12</sup> nor the need to change service and institutional structures and practices that deny women and girls with disability their right to uncompromised agency and autonomous decision-making.

### **Lack of emphasis on the importance of agency and decision-making**

In the *Committee on the Elimination of Discrimination against Women's* General Recommendation 35, the Committee 'urges States parties to strengthen the implementation of their obligations in relation to gender-based violence against women,'<sup>13</sup> explicitly stating that:

*"All measures should be implemented with an approach centred around the victim/survivor, acknowledging women as right holders, and promoting their agency and autonomy, including the evolving capacity of girls, from childhood to adolescence. In addition, the measures should be designed and implemented with the participation of women, taking into account the particular situation of women affected by intersecting forms of discrimination."<sup>14</sup>*

In recognition of the widespread denial of these rights to women and girls with disability, WWDA has, for many years, consistently called on successive Australian governments for the prohibition of the use of substitute decision-making regimes; and to instead implement the use of supported decision-making processes, where people with disability are given the support, information and

<sup>10</sup> Committee on the Elimination of Discrimination against Women (1991) General recommendation No. 18: Disabled women. UN Doc. No. A/46/38

<sup>11</sup> Our Watch (2021) Change the story 2nd edition: A shared framework for the primary prevention of violence against women in Australia, p. 21

<sup>12</sup> Community Affairs References Committee (2013) [Involuntary or coerced sterilization of people with disabilities in Australia](#). Parliament of Australia.

<sup>13</sup> Our Watch (2021) Change the story 2nd edition: A shared framework for the primary prevention of violence against women in Australia, p. 11

<sup>14</sup> Ibid.

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resources they require to make decisions, including and especially on issues about their bodies and reproductive health and rights.

WWDA has provided countless papers, Submissions, reports and references to evidence-based research on the relationship between laws and policies that allow for substitute decision-making regimes and executions of violence, abuse, neglect and exploitation of women and girls with disability. However, despite strong recommendations from several of the human rights treaty monitoring bodies to which Australia is a party, Australia has continued to omit the need for the safeguarding of autonomous decision-making in mainstream frameworks and strategies for the prevention of violence against women.

While the draft framework does acknowledge that there are constraints on women's independence and access to decision-making; it is conceptualised in a way that suggests that it is only individual men who deny women their right to contribute to decisions.

To strengthen this section and address the intersectional oppressions that impact marginalised groups of women, it should be emphasised that women and girls with disability are often denied the right to make their own decisions by carers, guardians, support workers, family members, institutional processes and even state legislations, as well as intimate partners and individual male perpetrators. In addition, it should be recognised that due to an increased reliance on others for things like support, medication, movement and nutrition; women with disability are often at far greater risk of being subject to violence, abuse, neglect and exploitation.

### **The framework itself is inaccessible**

Although WWDA understands that the draft framework is still in its final stages of development, we would like to raise concern about what appears to be a lack of consideration of the need for the resource to be accessible. In its current form, the diagrams, images, and headings, as well as many sections of text do not meet standard accessibility requirements for Word Documents or PDF's.

While this has not prevented current WWDA staff from providing feedback, it may have limited the ability of other stakeholders with disability to contribute. In order to amend this omission, WWDA

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recommends that Our Watch pay close attention to all standard accessibility measures before publicly releasing the 2<sup>nd</sup> edition of the Change the Story framework. In particular, this should include attention to the need to ensure colour contrast is significant, tables, diagrams and images are clear to the average reader and have descriptions for those with vision impairment and that the entire document is usable by individuals who use screen readers. In addition, WWDA highly recommends that the framework be translated into an Easy English and/or Easy Read summary, for distribution alongside the original.

WWDA appreciates the opportunity to provide this contribution to Our Watch, and respectfully suggests that Our Watch refers to the following papers for a more in-depth analysis on the identified issues:

- [WWDA's Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People With Disability Issues Paper on Violence and Abuse at Home](#)
- [WWDA's Response to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People With Disability Issues Paper on Promoting Inclusion](#)
- [Disabled People's Organisations Australia's Submission to the Special Rapporteur on violence against women, its causes and consequences: Visit to Australia](#)

Our Watch can also find a wealth of other resources on WWDA's website which could be accessed to provide further information on several of the issues we have identified in this letter.

Thank you again for the opportunity to provide feedback on the 2<sup>nd</sup> edition of the Change the Story framework. Our organisation looks forward to continuing to collaborate with Our Watch to prevent violence against all women.

Yours sincerely

Carolyn Frohmader  
Executive Director  
Women With Disabilities Australia

Heidi La Paglia  
Senior Policy and Programs Officer  
Women With Disabilities Australia

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