



## Fact Sheet: Violence Against Women With Disabilities

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Women and girls with disabilities make up approximately 20% of the population of Australian women, equating to about two million people. Violence against women with disabilities in Australia is far more extensive than violence amongst the general population.<sup>1</sup>

- Violence perpetrated against women with disabilities is significantly more diverse in nature and more severe than for women in general.<sup>2</sup>
- Compared to their peers, women with disabilities experience significantly higher levels of all forms of violence and are subjected to such violence by a greater number of perpetrators.<sup>3</sup>
- Women with disabilities are 40% more likely to be the victims of domestic violence than women without disabilities,<sup>4</sup> and more than 70% of women with disabilities have been victims of violent sexual encounters at some time in their lives.<sup>5</sup>
- Twenty per cent of women with disabilities report a history of unwanted sex compared to 8.2% of women without disabilities.<sup>6</sup>
- The rates of sexual victimisation of women with disabilities range from four to 10 times higher than for other women.<sup>7</sup>
- More than a quarter of rape cases reported by females in Australia are perpetrated against women with disabilities.<sup>8</sup>
- Ninety per cent of Australian 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.<sup>9</sup>
- Women and girls with disabilities have far less chance of being believed when reporting sexual assault, domestic violence, and other forms of violence, than other women and girls.<sup>10</sup>
- Crimes of violence committed against women with disabilities often go unreported, and when they are, they are inadequately investigated, remain unsolved or result in minimal sentences.<sup>11</sup>
- Women with disabilities in Australia continue to experience violence (particularly sexual violence) in residential and institutional settings,<sup>12</sup> where they frequently experience sustained and multiple episodes.<sup>13</sup>
- Research has found that women with disabilities often lose custody of their children to the violent partner when going through the family law system. In what they see as 'the best interests of the child', judges often decide that a parent who has no disability, even a violent parent, is more capable of caring for a child than a woman with a disability.<sup>14</sup> In Australia, a parent with a disability (usually a mother) is up to ten times more likely than other parents to have a child removed from their care, with the child removed by authorities on the basis of the parent's disability, rather than any evidence of child neglect.<sup>15</sup>

In Australia, there is no national, coordinated legislation to prevent and address violence against women, including family/domestic violence.<sup>16</sup> No existing Commonwealth or State/Territory domestic/family violence legislation is framed in a human rights framework setting it in the context of Australia's obligations to the core international human rights treaties to which it is a party. Domestic and family violence legislation differs across States and Territories providing different levels of protection and definitions of what constitutes 'family violence' and what constitutes a 'domestic relationship'. Many women with disabilities (such as those who live in residential and institutional settings) are essentially excluded from these protections, due to the limiting and restrictive definitions. Research has found that the lack of a clear definition and legal recognition of the problem of violence against women and girls with disabilities in legislation results in low priority being given to the issue within service environments, where the service sector is largely governed by a range of specific legislative frameworks designed to ensure effective service delivery that addresses one area alone such as disability or gendered violence.<sup>17</sup>

The primary response to addressing violence against women in Australia, including women with disabilities, is through the *National Plan to Reduce Violence against Women and their Children 2010-2022* (the *National Plan*) - implemented through a series of four, three-year action plans (Action Plans) - the first of which was launched in 2012, and the second in 2014. Whilst the Second Action Plan [*Moving Ahead 2013-2016*] does include a priority action to address violence against women with disabilities, the *National Plan* (and subsequently its second Action Plan) has significant limitations, in that there is little emphasis on girls with disabilities, it focuses only on traditional notions of domestic/family violence and sexual assault (in the context of intimate partner relationships

only), and fails to address the many other forms of violence perpetrated against women and girls with disabilities (such as violence in institutions and residential settings; sexual and reproductive rights violations, including forced sterilisation and forced abortion; restrictive practices; seclusion and restraint; deprivation of liberty). These forms of violence fall 'outside' the scope of the *National Plan*.<sup>18</sup>

Australia's ten-year *National Disability Strategy 2010-2020* (NDS) is the national policy framework to guide Australian governments to meet their obligations under the United Nations *Convention on the Rights of Persons with Disabilities* (CRPD). Although the NDS recognises that people with disabilities are 'more vulnerable to violence, exploitation and neglect', the NDS and its Implementation Plans are un-gendered; not resourced; contain no significant initiatives to address violence against women and girls with disabilities; and lack performance measures to track progress. As a mechanism to prevent and address the high levels of violence perpetrated against women with disabilities, the NDS is extremely limited.<sup>19</sup>

Violence against women and girls with disabilities fall into a number of policy 'gaps' as a result of the failure to grapple with the intersectional nature of the violence that they experience. The *National Plan [to Reduce Violence Against Women and their Children 2010-2022]* is only linked to the *Convention on the Elimination of Discrimination against Women* (CEDAW), and so is primarily focused on meeting human rights obligations in relation to gender discrimination. The *National Disability Strategy* (NDS) is only linked to the *Convention on the Rights of Persons with Disabilities* (CRPD), and so is primarily focused on meeting human rights obligations in relation to disability discrimination. Whilst the various Conventions are critical to the underlying human rights frameworks of these various policies, prevention of violence against women and girls with disabilities is equally a key obligation relating to civil and political rights; economic, social and cultural rights; child rights; as well as rights to be free from torture (and other cruel, inhuman or degrading treatment or punishment); and racial discrimination.

What this means in practice, is that there is no comprehensive and properly intersectional human rights policy framework in Australia to address all forms of violence against people with disabilities, especially women with disabilities, and no legal, administrative or policy framework for the prevention, protection, investigation and prosecution of all forms of violence, exploitation, and abuse of people with disabilities.

The United Nations treaty monitoring bodies have made strong recommendations to Australia in relation to addressing all forms of violence against women and girls with disabilities. In October 2013, the *Committee on the Rights of Persons with Disabilities*, in its *Concluding Observations [Australia]* [CRPD/C/AUS/CO/1], expressed its "deep concern" at the high rates of violence perpetrated against women and girls with disabilities and recommended urgent action by Australian Governments to address the violence, including for example, the need to: "address and investigate, without delay, violence, exploitation and abuse experienced by women and girls with disabilities in institutional settings; and "ensure access for women with disability to an effective, integrated response system".

For more than a decade, the United Nations treaty monitoring bodies have made strong recommendations to Australia in relation to the need to address as a matter of urgency, violence experienced by women and girls with disabilities (including addressing the ongoing practice of involuntary sterilisation of children and adults with disabilities) [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].

Yet successive Australian Governments have demonstrated an apathy and scant disregard for these recommendations. In practice, this means that women and girls with disabilities continue to experience widespread and pervasive gender-based and disability-based violence, in many different settings and environments.

## **Proposed Recommendations**

That the Australian Government investigate the feasibility of developing national over-arching *Violence Against Women* legislation, modelled on the *Istanbul Convention*,<sup>20</sup> to ensure it provides a co-ordinated, victim-centred approach to combating all forms of violence against women.

That the Australian Government urgently commission and fund a *National Public Inquiry into Violence Against People with Disabilities in Institutions*, with a specific focus on the gendered nature of such violence, and the multiple forms of violence perpetrated against people with disabilities in such settings. Such an inquiry should address the 2006 and 2010 urgent observation of the *Committee on the Elimination of All Forms of Discrimination against Women* [CEDAW/C/AUS/CO/7; CEDAW/C/AUL/CO/5] and the 2013 urgent recommendation of the *Committee on the Rights of Persons with Disabilities* [CRPD/C/AUS/CO/1] to 'address and investigate, without delay, violence, exploitation and abuse experienced by women and girls with disabilities in institutional settings'.

In keeping with the recommendations from the United Nations treaty monitoring bodies [CEDAW/C/AUS/CO/7; CRC/C/15/Add.268; CRC/C/AUS/CO/4; A/HRC/17/10; CRPD/C/AUS/CO/1; CCPR/C/AUS/Q/6; A/HRC/22/53;

A/67/227], along with the *International Federation of Gynecology and Obstetrics (FIGO) Guidelines on Female Contraceptive Sterilization* (2011);<sup>21</sup> recommendations of the *World Medical Association (WMA)* (2011); the *International Federation of Health and Human Rights Organisations (IFHHRO)* (2011);<sup>22</sup> and the *Report of the UN Special Rapporteur on Torture* (2013),<sup>23</sup> the Australian Government should adopt national uniform legislation prohibiting the use of sterilisation of girls and boys with disabilities, and of adults with disabilities in the absence of their prior, fully informed and free consent.

In keeping with recommendations from the *Committee on the Elimination of Discrimination Against Women* [CEDAW/C/AUL/CO/5; CEDAW/C/AUS/CO/7] and the *Committee on the Rights of Persons with Disabilities*, [CRPD/C/AUS/CO/1] and consistent with CEDAW Article 4(1) and CEDAW General Recommendation 25, the Australian Government ensure that women and girls with disabilities be provided opportunities to actively participate in and be represented on decision-making, advisory and planning bodies at all three levels of government (federal, state and local) and across all portfolio areas concerning violence against women and girls with disabilities.

Recognising the need to address violence against people with disabilities, including domestic violence, in an intersectional way, the Australian Government should establish an independent, statutory, national protection mechanism that has broad functions and powers to protect, investigate and enforce findings related to situations of exploitation, violence and abuse experienced by people with disabilities, and that addresses the multiple and aggravated forms of violence and abuse that result from the intersection of 'disability' with other characteristics, such as gender, age, indigenous status and racial, cultural or linguistic status.

That the Australian Government together with state and territory governments considers strategies (including legislative action) to address the lack of accessible violence response services for women and girls with disabilities. These strategies should ensure that violence response services operate within a framework that requires them to consider the needs of persons with disabilities at each stage of the service delivery model.

That the Australian Government together with state and territory governments consider strategies to address the lack of violence prevention, recognition and response in disability and health services. Most urgently, the *National Disability Insurance Agency (NDIA)* ensures that appropriate safeguards, standards and practice guidelines are developed that prioritise and drive responses to violence against people with disabilities and ensure referral pathways to violence response services. As part of this, the new *National Disability Insurance Scheme (NDIS)* workforce must be trained in understanding gendered violence and applying the principles of good practice to uphold the safety of people with disabilities.

<sup>1</sup> 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; See also: Women With Disabilities Australia (WWDA), People with Disabilities Australia (PWDA) and the University of New South Wales (2013) *Stop the Violence: Addressing Violence Against Women and Girls with Disabilities in Australia*; Report of the Proceedings and Outcomes of the National Symposium on Violence against Women and Girls with Disabilities; Sydney, 25 October 2013. WWDA, Hobart, Tasmania; See also: 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; See also: Australian Bureau of Statistics (ABS) (2012) *Australian Social Trends June 2011: Children with a disability*, Australian Bureau of Statistics, Canberra, Cat. No. 4102.0.

<sup>2</sup> Dowse, L. et al (2013) OpCit.

<sup>3</sup> For example: In August 2014, a Perth taxi driver was found guilty of 33 charges including rape and sexual assault of 5 women with disability who had been reliant on the maxi taxi driver for their transportation. The assaults only came to light when one of the women, a 29-year-old woman with cerebral palsy and significant communication impairment, was able to alert her carer to what had happened. When police reviewed security footage from the maxi-taxi, they discovered a further four disabled women had been sexually assaulted by the driver over a two month period. See: <http://www.abc.net.au/news/2014-08-08/perth-taxi-driver-jailed-for-10-years-for-rape-and-sexual-abuse/5658274> See also: Women With Disabilities Australia (WWDA) (2007b) *'Forgotten Sisters - A global review of violence against women with disabilities'*. WWDA Resource Manual on Violence Against Women With Disabilities. Published by WWDA, Tasmania, Australia.

<sup>4</sup> Brownridge, D. (2006) 'Partner violence against women with disabilities: Prevalence, risks and explanations', *Violence against Women*, vol. 12, no. 9, pp. 805–22.

<sup>5</sup> 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 (WWDA), Hobart, Tasmania. ISBN: 978-0-9585268-2-1. Available at: [http://wwda.org.au/wp-content/uploads/2013/12/WWDA\\_Sub\\_NDS\\_Review2014.pdf](http://wwda.org.au/wp-content/uploads/2013/12/WWDA_Sub_NDS_Review2014.pdf)

<sup>6</sup> Cited in Dowse, L. et al (2013) OpCit.

<sup>7</sup> Ibid.

<sup>8</sup> 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). Available online at: <http://wwda.org.au/issues/viol/viol2011/>

<sup>9</sup> 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>

<sup>10</sup> In Frohmader, C. (2011) OpCit.

<sup>11</sup> Ibid.

<sup>12</sup> 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; See also: Women With Disabilities Australia (WWDA), People with Disabilities Australia (PWDA) and the University of New South Wales (2013) *Stop the Violence: Addressing Violence Against Women and Girls with Disabilities in Australia*; Report of the Proceedings and Outcomes of the National Symposium on Violence against Women and Girls with Disabilities; Sydney, 25 October 2013. WWDA, Hobart, Tasmania. Available at: <http://wwda.org.au/issues/viol/viol2011/>

<sup>13</sup> Attard, M., & Price-Kelly, S. (2010) *Accommodating Violence: The experience of domestic violence of people with disability living in licensed boarding houses*, PWDA, NSW.

<sup>14</sup> In Frohmader, C. (2014) OpCit. See also: DisAbleD Women's Network (1992) *Family Violence against Women with Disabilities*. DisAbleD Women's Network (DAWN), Ontario, Canada.

<sup>15</sup> 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/>

<sup>16</sup> Australian Government (2012) *Responses by Australia to the recommendations contained in the concluding observations of the Committee following the examination of the combined sixth and seventh periodic report of Australia on 20 July 2010*. Accessed February 2013 at: <http://www2.ohchr.org/english/bodies/cedaw/docs/CEDAW.C.AUL.CO.7.Add.1.pdf>

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<sup>17</sup> Dowse, L. et al (2013) OpCit.

<sup>18</sup> Frohmader, C. & Cadwallader, J. (2014) *Joint Submission from National Cross-Disability Disabled People's Organisations (DPO's) to the Senate Standing Committee on Finance and Public Administration 'Inquiry into Domestic Violence in Australia'*. Prepared for and of behalf of: Women With Disabilities Australia (WWDA); First People's Disability Network Australia (FPDNA); People with Disability Australia (PWDA); Children with Disability Australia (CDA) and, National Ethnic Disability Alliance (NEDA). Available online at: [http://wwda.org.au/wp-content/uploads/2013/12/Final\\_Draft\\_DPO\\_Sub\\_DV\\_Senate2014.pdf](http://wwda.org.au/wp-content/uploads/2013/12/Final_Draft_DPO_Sub_DV_Senate2014.pdf)

<sup>19</sup> Frohmader, C. (2014) OpCit.

<sup>20</sup> The *Convention on Preventing and Combating Violence Against Women and Domestic Violence* (also known as the *Istanbul Convention*) was developed by the Council of Europe, which includes 47 member states (28 of which are members of the European Union). The Convention entered into force on 1 August 2014. For information on the *Istanbul Convention*, go to: [http://www.coe.int/t/dghl/standardsetting/convention-violence/default\\_en.asp](http://www.coe.int/t/dghl/standardsetting/convention-violence/default_en.asp)

<sup>21</sup> FIGO (International Federation of Gynecology and Obstetrics), *Female Contraceptive Sterilization*. Available at: <http://www.wwda.org.au/FIGOGuidelines2011.pdf>

<sup>22</sup> 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 Sterilisation: Press Release, 5 September 2011. Available at: <http://www.wwda.org.au/sterilWMA2011.htm>

<sup>23</sup> A/HRC/22/53