

Update to the Australian NGO Report on the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women

June 2010

Prepared by YWCA Australia, Women's Legal Services NSW & Kingsford Legal Centre, in consultation with the CEDAW Review Project's Advisory Group, which brings together women from over 30 organisations from across Australia¹

Contents

Context of this report.....	1
Articles 1–3: Definition of discrimination against women, obligations to eliminate discrimination against women and advancement of women.....	1
Articles 4 Temporary special measures	3
Article 5: Sex roles and stereotyping	4
Article 6: Suppression of the exploitation of women.....	5
Article 7: Public participation	6
Article 8: International participation.....	6
Article 9: Nationality.....	7
Article 11: Employment/work.....	7
Article 14: Economic and social rights	9
Article 15: Equality before the law	10
Article 16: Equality in family relations.....	11
Violence against women	12

Context of this report

1. This report provides an update on events that have taken place since the Australian NGO Report was finalised in July 2009. It should be read together with that Report.

Articles 1–3: Definition of discrimination against women, obligations to eliminate discrimination against women and advancement of women

Positive developments

Gaps in anti-discrimination mechanisms – Sex Discrimination Act

See paragraphs 3.3 – 3.6 and recommendations on page 6 of the Australian NGO Report.

2. In April 2010, the Australian Government responded to the Senate Legal and Constitutional Affairs Committee's report on the *Effectiveness of the Sex Discrimination Act 1984 (Cth) in eliminating discrimination and promoting gender equality in Australia*. The Government proposed that it would:

¹ Parts of this Report Update are based on sections of the *Australian NGO Submission to the UN Committee on the Elimination of Racial Discrimination in Australia*, June 2010 which was co-authored by Emily Howie, Human Rights Law Resource Centre, and Louise Edwards, National Association of Community Legal Centres; and the *WomenSpeak 2010 Election Platform*. The development of this report has been supported by funding from the Australian Government through the Women's Leadership and Development Program.

- ensure that protection from discrimination provided by the Act applies equally to women and men;
- establish breastfeeding as a separate ground of discrimination;
- provide greater protection from sexual harassment, including cyberbullying, for students and workers;
- extend protection from discrimination on the grounds of family and caring responsibilities to both women and men in all areas of employment; and
- give further consideration to implementing the outstanding recommendations of the review as part of proposed consolidation of federal discrimination laws.

Draft legislation implementing the Government's initial response was introduced into Parliament on 24 June 2010.

Gaps in anti-discrimination mechanisms – developments at state level

See paragraph 3.7 of the Australian NGO Report.

3. The Victorian *Equal Opportunity Act 2010* was passed in April 2010 following the Parliamentary review of the 1995 Act. The new Act introduces important new mechanisms to address systemic discriminations, including an express positive duty to eliminate discrimination, and new powers for the Victorian Equal Opportunity and Human Rights Commission to conduct investigations and public inquiries. While these are excellent changes, it is disappointing that the Act does not include protections against discrimination on the basis of homelessness or irrelevant criminal record and retains permanent exemptions for religious groups and same sex clubs that perpetuate unfair and unreasonable discrimination against women, including, for example, by limiting lesbian women's safe access to education, hospitals and healthcare, employment, welfare and aged care.

Challenges to the implementation of Articles 1 – 3

Human rights charters and bills of rights – developments at national level

See paragraphs 2.1 – 2.3 and recommendations on page 3 of the Australian NGO Report.

4. In late 2009, the Australian Government released the report of the National Human Rights Consultation Committee, an independent committee appointed by the government to review human rights protection in Australia. The Committee received a record 35,000 submissions and ultimately recommended that Australia adopt a Human Rights Act, a key recommendation supported by over 87 per cent of submissions that addressed the issue.²
5. However, in April 2010 the Australian Government announced that it does not support a Human Rights Act, and has deferred further consideration of that issue until 2014. Instead the Government announced an 'Australian Human Rights Framework', which contains some significant commitments to strengthen the promotion and protection of human rights in Australia, including greater parliamentary scrutiny of legislation for compliance with international human rights obligations, statements of compatibility with international human right obligations for new bills, reviewing legislation policies and practice for compliance with international human rights treaties, human rights education, a National Action Plan on Human Rights, consolidating and harmonising federal anti-discrimination law into a single Act, and

² See *Report of the National Human Rights Consultation*, September 2009, p 264 and Recommendation 18.

creating a human rights forum for whole of government engagement with non-government organisations.³

Additional recommendations proposed for Concluding Comments

- ⇒ THAT the Australian Government be commended for its commitment to introduce changes to the Sex Discrimination Act 1984, and be encouraged to consider the remaining considerations as a matter of priority.
- ⇒ THAT all State and Territory governments adopt laws and policies which provide comprehensive protection of the right to equality and non-discrimination, including measures which do not allow for permanent exceptions to the functioning of the laws, for example for religious or voluntary bodies.
- ⇒ THAT the Australian Government implements, as a matter of priority, its project to consolidate and harmonise Australia's anti-discrimination laws and that it does so on the basis of broad consultation and in a manner that strengthens anti-discrimination laws and does not diminish existing federal protections.
- ⇒ THAT the Australian Government develop and release a draft exposure Human Rights Bill that makes explicit reference to CEDAW and substantive equality for women in advance of the review of the Human Rights Framework in 2014.

Articles 4 Temporary special measures

Positive developments

Measures to address under-representation of women on boards/senior management

See paragraphs 10.1 – 10.7 of the Australian NGO Report.

6. On 22 April 2010, the Australian Securities Exchange (ASX) Corporate Governance Council released proposed changes to the Corporate Governance Principles and Recommendations, which include recommendations that ASX listed entities:
 - adopt and disclose a diversity policy (encompassing gender, age, ethnicity and cultural background) that includes measurable objectives for achieving gender diversity; and
 - disclose in their annual report their achievement against these objectives and the proportion of women on the board, in senior management and employed throughout the whole organisation.

Final changes to the Principles and Recommendations are expected to be released on 30 June 2010, following a consultation process, and commence on 1 January 2011.⁴

7. In November 2009, the Australian Institute of Company Directors also announced a number of initiatives aimed at achieving greater representation of women on boards and in senior management, including:
 - new recommendations for boards to adopt, and report on, diversity policies and goals for the board and senior management;
 - recommendations for greater transparency in board selection processes and reporting;

³ See Australian Attorney-General's Department, *Australia's Human Rights Framework*, April 2010, <http://www.ag.gov.au/humanrightsframework>.

⁴ ASX Corporate Governance Council (2010) *Corporate Governance Principles and Recommendations*, Exposure Draft, 22 April, available from <http://www.asx.com.au/about/pdf/20100421_proposed_changes_to_corporate_governance_principles.pdf> at 21 June 2010.

- a new mentoring program bringing together senior listed company chairmen and emerging women directors; and
- educational initiatives and a publication providing guidance for boards and search professionals on board appointments that highlights the advantages of diversity and widening the candidate pool.⁵

8. In March 2010, the Business Council of Australia announced a pilot program in which CEOs will mentor high-achieving women. The program has been welcomed by Woman & Leadership Australia who feel the program will identify talented women and create pathways allowing more women to reach the top of the corporate ladder.⁶

Additional recommendations proposed for Concluding Comments

- ⇒ THAT the ASX Corporate Government Council, the Australian Institute of Company Directors and the Business Council of Australia be commended for their measures to address under representation of women on boards/senior management.
- ⇒ THAT the Australian Government promote a target of 40 per cent representation of women on all publicly listed boards, to be achieved over three years; and, if progress is not made after three years, legislate to require publicly listed companies and other large employers to achieve a mandatory gender diversity quota of at least 40 per cent of women within a specified timeframe, with penalties for failure to comply.

Article 5: Sex roles and stereotyping

Positive developments

Body image and media portrayal of gender

See paragraph 14.5 and the recommendation on page 20 of the Australian NGO Report.

9. The National Advisory Group on Body Image presented its Proposed Strategy on Body Image to the Minister for Youth in October 2009.⁷ The strategy encourages companies, the media, advertisers and the fashion industry to promote more positive body image messages. It also details a voluntary industry Code of Conduct aimed at ensuring these messages are delivered to young Australians. The Australian Government is yet to respond to the Proposed Strategy on Body Image.

Challenges to the implementation of Article 5

Changing community attitudes towards violence against women

10. The results of a national survey of over 10,000 people on community attitudes towards violence against women have revealed a number of changing attitudes across Australia in relation to violence against women. The findings show that there is a broad understanding of domestic and sexual violence and its impacts, and most do not condone it. Since 1995, there

⁵ Australian Institute of Company Directors, *AICD Takes Action On Board Diversity*, Media Release, 24 November 2009, available from <<http://www.companydirectors.com.au/Media/Media+Releases/2010/AICD+Takes+Action+On+Board+Diversity.htm>> at 21 June 2010.

⁶ Women & Leadership Australia (2010) *CEOs step up to offer hand to women in business*, Media Release, May, available from <http://www.wla.com.au/newsletter/1005_newsletter/CEOs_step_up_to_offer_hand_to_women_in_business.php> at 8 June 2010.

⁷ Minister for Early Childhood Education, Childcare and Youth (2009) *Minister receives report to tackle negative body image*, Media Release, 27 October, available from <http://www.deewr.gov.au/Ministers/Ellis/Media/Releases/Pages/Article_091027_160212.aspx> at 8 June 2010.

has been a positive shift in knowledge and awareness of different forms of violence and abuse. However, attitudes that condone, justify or excuse violence against women still exist, including 22 per cent of people believing that domestic violence is perpetuated equally by both men and women, 34 per cent of people believing that ‘rape results from men being unable to control their need for sex’, 13 per cent of people agree that women ‘often say no when they mean yes’ and 22 per cent believe that domestic violence can be excused later if the perpetrator regrets what they have done.⁸

Additional recommendations proposed for Concluding Comments

⇒ THAT the National Advisory Group on Body Image be commended on its Proposed Strategy on Body Image, and that the Australian Government ensure appropriate funding is provided to support the Strategy initiatives, monitor and report on the implementation of the voluntary code of conduct, and establish a process to consider greater government regulation should industry fail to abide by the standards set out in the Strategy.

Article 6: Suppression of the exploitation of women

Challenges in the implementation of Article 6

Accommodation for women trafficked into Australia

11. It is becoming evident that there are a number of problems in relation to accommodation for women trafficked into Australia who are on the Government Support Program for Victims of Trafficking. In the initial phase of referral into the Government Support Program, people who have been trafficked are provided with emergency accommodation, and often the only available option is to be accommodated on their own, in a commercial city hotel. This can be a frightening experience for someone just recovering from a trafficking experience.
12. Another accommodation need is the provision of ongoing housing for trafficked people when they move on to phase two of the Government Support Program. Again, due to the scarcity of supported or transitional housing or public housing options, they are often forced to seek housing through the private rental market, which is increasingly competitive, especially in major cities and in areas close to public transport and other amenities. The Australian Catholic Religious Against Trafficking has received reports of a number of women considering returning to sex work solely in order to have enough money to pay rent for their housing in both Sydney and Melbourne.

Additional recommendations proposed for Concluding Comments

⇒ THAT the Australian Government provide a variety of housing options to women trafficked into Australia, including:

- group housing for people who would like communal living, for example for people who share a language and/ or culture and who might be able to support each other in shared facilities;
- small group housing for women with children; and
- individual units with options to access shared facilities.

⁸ VICHEALTH (2010) *National Survey on Community Attitudes to Violence against Women 2009* available from <<http://www.vichealth.vic.gov.au>> at 8 June 2010.

Article 7: Public participation

Positive developments

Increased numbers of female senior public figures

See paragraph 20.1 and the recommendation on page 29 of the Australian NGO Report.

13. On 24 June 2010, in an historic first, Julia Gillard was elected as the first female Leader of the Australian Parliamentary Labor Party and subsequently appointed as the first female Prime Minister of Australia.

Funding of Women's Alliances

See paragraph 22.1 and the recommendation on page 29 of the Australian NGO Report.

14. Following the completion of its review of the national women's alliances, the Australian Government announced the funding of six National Women's Alliances for \$200,000 each per year for three years. The six funded alliances include the continued funding for the National Rural Women's Coalition and Network and welcome funding for two new alliances bringing together Aboriginal and Torres Strait Islander women, and immigrant and refugee women, and a new alliance focusing on violence against women.

Women's Leadership and Development Grants

See paragraph 23.1 of the Australian NGO Report.

15. We welcome the second round of Women's Leadership and Development Grants in 2009, which has funded a number of innovative projects developed by national women's organisations, including funding to assist NGOs prepare for Australia's review under CEDAW. This update report has been prepared as part of this project.

Additional recommendations proposed for Concluding Comments

⇒ THAT the Australian Government be commended on its funding of six women's National Women's Alliance, including funding for alliances that bring together rural women, Aboriginal and Torres Strait Islander women, and immigrant and refugee women, and a new alliance focusing on violence against women.

Article 8: International participation

Positive developments

Australian participation at international forums

See paragraph 27.1 of the Australian NGO Report.

16. The Australian Government continued to support NGO representation at the Commission on the Status of Women by funding three NGO representatives to attend the Commission's March 2010 meeting.

Composite Entity for Gender Equality and Women's Empowerment

17. In September 2009, the UN General Assembly adopted a resolution that strongly supports the establishment of a new 'Composite Entity', which will sharpen the focus and impact of the gender equality activities of the entire UN system. The Australian Government has strongly supported the establishment of the new entity.

Additional recommendations proposed for Concluding Comments

- ⇒ THAT the Australian Government be commended for its support of NGO representatives at the Commission on the Status of Women and that it continue to support the role and full participation of civil society in UN meetings, conferences and international human rights forums.
- ⇒ THAT the Australian Government pledge core, predictable, and multi-year voluntary funds now for the new Composite Entity for Gender Equality and Women's Empowerment and continue to offer strong moral support for the new entity.
- ⇒ THAT the Australian Government advocate in support of recognition of the vital role that civil society, particularly women's organisations, should play in the work of the new Composite Entity, and for an adequate transition period for the current agencies.

Article 9: Nationality

Challenges in the implementation of Article 9

Suspension of processing applications for asylum

18. In April 2010, the Australian Government suspended the processing of all applications for asylum from Sri Lankan and Afghanistan people, including women and children.⁹ This will remove procedural rights from Afghan and Sri Lankan asylum seekers on the basis of their nationality and also subject them to arbitrary detention, restriction of their freedom of movement and to proper health care and legal advice.

Additional recommendations proposed for Concluding Comments

- ⇒ THAT the Australian Government immediately remove the suspension on processing visa applications from asylum seekers from Sri Lanka and Afghanistan; and review its policies and procedures regarding asylum seekers to eliminate any discrimination in the visa application process.

Article 11: Employment/work

Positive developments

Paid parental leave

See paragraphs 41.1 – 41.3 and the recommendations on page 47 of the Australian NGO Report.

19. We welcome the passage of new legislation in June 2010 to implement Australia's first paid parental leave scheme, which will provide the primary carer (subject to an income test and a work test) with 18 weeks post-natal leave, paid at the adult federal minimum wage. Non-working mothers, subject to the relevant means test, will continue to receive the \$5000 Baby Bonus and related family payments. Improvements to the scheme, which could be included as part of the second year review, are the addition of superannuation, an extension of the period of paid leave, an increase to the level of payment and leave for fathers to address unequal care burden on women.

⁹ Chris Evans, Minister for Immigration (2010) 'Suspension on processing of all new applications from asylum seekers from Sri Lanka and Afghanistan' (Speech delivered at Parliament House, Canberra, 9 April).

Challenges to the implementation of Article 11

Review of Australian Taxation System

See paragraphs 42.1 – 42.4 and the recommendations on page 48 of the Australian NGO Report.

20. The Australia's Future Tax System Review (also known as the Henry Review) delivered its final report on the entire taxation system to the Australian Government in December 2009. The Government released its response to some of the recommendations in the report in May 2010 and is yet to respond to other recommendations.
21. We welcome the consideration by the Review of the impact of caring on women's workforce participation. However, before recommendations are implemented, a thorough gender analysis must be undertaken to ensure that they will in fact increase women's economic equality and security. We are concerned that some of the Review measures may in fact have unintended negative impacts on women and children.

Pay equity

See paragraphs 44.1 – 44.4; 45.1 – 45.3 and the recommendations on pages 51 and 52 of the Australian NGO Report.

22. The gender pay gap has widened further since 2009, with women earning 82 cents in the male dollar (full-time adult ordinary time earnings) as of February 2010 – this is the biggest gap since 1994.¹⁰ We note that there are also intra-gender pay equity issues, including for Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, and lesbian women.
23. A parliamentary inquiry into the pay equity gap for women – *Making it Fair* – recommended numerous changes to the *Fair Work Act* and the *Sex Discrimination Act* in November 2009, including requesting the Australian Industrial Commission to demonstrate how an award has achieved pay equity principles before finalising it, establishing a Pay Equity Unit to focus approaches to address the gender pay gap and ensuring that repeat offenders of sex discrimination on the basis of pregnancy are required to attend counselling or an approved training course.¹¹
24. The Australian Services Union has lodged a national case to test the new provisions of the *Fair Work Act 2009* (Cth) aimed at securing fairer pay rates for social and community workers who, it argues, are paid less because they are predominantly female and their work is characterised as women's work.¹² If the case is successful, increased funding from government is needed for social and community services to ensure that the decision can be implemented without job losses or a reduction of services.
25. The consultation report on the review of Equal Opportunity for Women in the Workplace Agency was released in January 2010 but the Australian Government is yet to respond to the report.

¹⁰ EOWA Factsheet available from < http://www.eowa.gov.au/Pay_Equity/Equal_Pay_Day.asp> at 15 June 2010.

¹¹ House Standing Committee on Employment and Workplace Relations (2009) *Making it Fair*, Report of the Inquiry into pay equity and associated issues related to increasing female participation in the workforce, 23 November.

¹² Australian Services Union (2010) *Equal Pay Campaign starts today with launch of national test case for social and community workers*, Media Release, 11 March, available from <http://www.asu.asn.au/media/sacs/20100311_actuequalpay.html> at 8 June 2010.

Additional recommendations proposed for Concluding Comments

- ⇒ THAT the Australian Government be commended on introducing a paid parental leave scheme and that superannuation, leave for fathers, an extended period of paid leave and an increased level of payment be introduced after the two year review.
- ⇒ THAT the Australian Government conduct a thorough gender analysis of the taxation system and reform the system to reduce the gender pay gap.
- ⇒ THAT the Australian Government implement and fund the recommendations of the pay equity report, *Making it Fair*, as a matter of priority.
- ⇒ THAT the Australian Government increase funding to any government-funded services that may be affected by a decision on the social and community workers pay equity case so that the decision can be implemented without job losses or reduction of services.
- ⇒ THAT the Australian Government respond to the review of Equal Opportunity for Women in the Workplace Agency as a matter of priority.

Article 14: Economic and social rights

Challenges to the implementation of Article 14

Childcare funding

See paragraphs 64.1 – 64.5 and the recommendations on page 74 of the Australian NGO Report.

26. We are disappointed in the Australian Government's failure to build 260 childcare centres across Australia, as promised in 2007, and its revised commitment to build only 38 new centres. The National Centre for Social and Economic Modeling report released in May 2010 confirms that increased childcare costs negatively impact on women's workforce participation.¹³

Discriminatory affect of changes to social security payments on lesbian women

See paragraph 84.2 and the recommendation on page 97 of the Australian NGO Report.

27. The Australian Government has implemented changes to social security payments that affected lesbian women without a clause to guarantee that lesbians receiving social security benefits do not lose their existing entitlements, or introduce a lengthier adjustment time to allow women to rearrange their finances, as was recommended in the Australian NGO Report. The failure to offer transitional arrangements, which have been offered in other changes to Federal government allowances, is a form of discrimination against lesbians. The impact of these reforms include the forced disclosure of lesbians' sexual orientation to a government department if one member of a lesbian couple is receiving government benefits, and psychological trauma to those lesbians who have needed to protect themselves by living in hiding. The impact is particularly severe on older, vulnerable lesbians who have long been affected by discriminatory laws, including those that were amended in July 2009. They have no legal means by which to seek redress for their cumulative relative financial disadvantage.

Changes to the disability support pension

See paragraph 66.1 of the Australian NGO Report.

28. The automatic assessment for the Disability Support Pension has been suspended, and replaced with a system of putting new applicants onto the NewStart jobseekers allowance,

¹³ Gong, X (2010), NATSEM Seminar - How Responsive Is Female Labour Supply to Child Care Costs, 21 May, available from <<http://www.canberra.edu.au/centres/natsem/publications>> at 8 June 2010.

which carries stringent job search requirements, and is worth about 20 per cent less than the disability support pension and carries fewer associated concessions. As a result, women with disability are required to prove, by applying for and failing to secure work, that they are eligible for formal assessment for the Disability Support Pension. This ruling will have disproportionately negative effects on the health and wellbeing of women jobseekers with disabilities.

Income management

29. Compulsory income management, which currently applies to Aboriginal people in the Northern Territory (see pages 46-47 of the Aboriginal and Torres Strait Islander Women's Parallel NGO Report), has been extended to non-Indigenous welfare recipients across Australia. Under compulsory income management, half the fortnightly payments for people on certain types of income support are earmarked for essentials like food, bills, clothes and rent and available for use on a designated social security card.
30. The compulsory income management scheme is a major change to the Australian welfare system that has occurred without sufficient evidence that the scheme will overcome disadvantage. It may prevent the creation of individual solutions for individual problems, as well as humiliating unemployed people without providing measures to create jobs or training. Of particular concern is that the scheme will apply to 'vulnerable' people who live in a designated area and this will include women who are in financial stress, homeless, disabled, carers, experiencing domestic violence or with mental health issues. This may result in women being reluctant to seek emergency financial relief or access homelessness or domestic violence services in case income management will apply to their payments. While income management can assist people manage their budgets, it should be a choice made by individuals or communities

Additional recommendations proposed for Concluding Comments

- ⇒ THAT the Australian Government amend social security legislation to incorporate transitional arrangements for lesbian women affected by the 2009 changes to social security.
- ⇒ THAT the Australian Government reinstate the automatic assessment for the Disability Support Pension.
- ⇒ THAT the Australian Government halt its compulsory income management scheme and ensure that any income management scheme is voluntary, developed in consultation with affected communities and part of a broader strategy to improve pathways out of poverty, social exclusion and unemployment.

Article 15: Equality before the law

Positive developments

Community legal centres and legal aid

See paragraphs 80.1 – 80.5 and the recommendations on page 94 of the Australian NGO Report.

31. For four years from 1 July 2010, the Australian Government will invest an additional \$154 million in legal assistance programs, including \$92.3 million for legal aid, \$34.9 million for Indigenous legal services and \$26.8 million for community legal services programs. However, as noted below, more funding for legal assistance programs is still needed to meet the legal needs of women who are disadvantaged in their access to justice.

Challenges to the implementation of Article 15

Implementation of access to justice inquiries

See paragraph 81.1 and the recommendations on page 94 of the Australian NGO Report.

32. In December 2009, the Senate Legal and Constitutional Affairs Committee released a unanimous report on its access to justice inquiry making 31 urgent recommendations for reform that were largely around funding and incentives for the legal aid and community legal sector. The report identifies serious long-standing gaps in the legal system and proposes new initiatives for reform. The report also identifies the lack of community legal services in rural and regional areas and recommends the development of incentives to encourage lawyers to work in these areas.

Additional recommendations proposed for Concluding Comments

⇒ THAT the Australian Government be commended for increasing funding of legal assistance programs and be called on to further increase the ongoing funding to such services to better meet the legal needs of women who are disadvantaged in their access to justice.

Article 16: Equality in family relations

Challenges in the implementation of Article 16

Care of children and women's safety post-separation

See paragraphs 86.1 – 86.5 and the recommendations on page 98 of the Australian NGO Report.

33. Three recently released reports into the 2006 reforms reveal the family law system is failing to keep women and children safe. In particular, the reports found that:
- Shared parental decision-making and shared care arrangements are being made in cases where there is a history of family violence and/or dysfunctional behaviours.
 - Shared care arrangements compromise the well-being of children when safety concerns about the children exist.
 - 20% of parents held safety concerns associated with ongoing contact with their child's other parent and over 90% of these parents had been either physically hurt or emotionally abused by the other parent.
 - Parents whose capacity to mediate is compromised by past or present violence are still entering the system at Family Relationship Centres (introduced in 2006).
 - While the development and maintenance of a close relationship requires spending time together, existing research suggests that 'more time' does not necessarily equate with better outcomes for children.¹⁴

Additional recommendations proposed for Concluding Comments

⇒ THAT the Australian Government implement the key recommendations from the reports and increase funding for key services in the family law system (such as contact centres, legal aid, community legal centres, family law consultants and the family courts) to ensure that women's safety is better protected in the family law system.

¹⁴ Australian Institute of Family Studies, Evaluation of the 2006 Family Law Reforms (2009); Professor Richard Chisholm, Family Violence Review (2009); and Family Law Council Improving Responses to Family Violence in the Family Law System (2009).

Violence against women

Positive developments

Family violence death review in New South Wales

See paragraphs 97.1 – 97.2 and the recommendation on page 108 of the Australian NGO Report.

34. We welcome the introduction of legislation into New South Wales Parliament to establish a multi-disciplinary and multi-agency Domestic Violence Death Review Team.

Challenges in the implementation of strategies to prevent violence against women

Sterilisation of women and girls with disability

See paragraphs 99.1 – 99.4 and the recommendation on page 100 of the Australian NGO Report.

35. In March 2010 a Queensland Court approved the non-therapeutic sterilisation of an 11 year old girl. Despite being called on, yet again, to develop uniform legislation banning the practice the Australian Government has refused to act.

Violence against lesbian women

36. Research on 1,100 gay, lesbian, bisexual and transgender people in Queensland, released in June 2010, has found that 72 per cent of those living in Brisbane have been victimized in the past two years due to their sexual orientation or gender identity. Of female participants, 6 per cent have been physically assaulted with a weapon, 15 per cent assaulted without a weapon, 69 per cent verbally abused, and 75 per cent of this violence and abuse has gone unreported.¹⁵ These figures are consistent with earlier Victorian findings, which found 70 per cent of heterosexist violence goes unreported, despite 19 per cent of anti-lesbian violence requiring medical treatment and has remained stable over time. Disturbingly, 41 per cent of Victorian lesbians are in, or have been in, violent and abusive same-sex relationships, which often goes unacknowledged by national anti-violence strategies.¹⁶

Additional recommendations proposed for Concluding Comments

- ⇒ THAT the New South Wales Government be commended on its development of legislation to support a Domestic Violence Death Review Team, and that the New South Wales Government commit adequate resources for the work of the Team.
- ⇒ THAT the Australian, State and Territory Governments fund police and government outreach services in lesbian community-based organisations to address barriers to lesbians reporting hate crimes.
- ⇒ THAT Australian, State and Territory governments collect intra-gender disaggregated data on lesbian-specific family violence; fund research into heterosexist violence, bullying, and abuse in all spheres (including the family home) and its effects on lesbian women's mental health; and implement strategies to address such violence.
- ⇒ THAT police forces collect information on hate-related abuse and crimes on the basis of sexual orientation and gender identity; and incorporate gay, lesbian, bisexual and transgender competencies into their training, policies, and procedures.

¹⁵ Berman and Robinson (2010) *Speaking Out: Stopping Homophobic and Transphobic Abuse in Queensland*, Australian Academic Press.

¹⁶ Leonard, Mitchell, Pateland Fox (2008) *Coming Forward: The Underreporting of Heterosexist Violence and Same Sex Partner Abuse in Victoria*, Gay and Lesbian Health Victoria; McNair and Thomacos (eds) (2005) *Not Yet Equal: Report of the VGLRL Same Sex Relationships Survey*, Victorian Gay and Lesbian Rights Lobby.