



**Australian  
Human Rights  
Commission**

# Inquiry into Family, Domestic and Sexual Violence

**AUSTRALIAN HUMAN RIGHTS COMMISSION SUBMISSION  
TO THE HOUSE OF REPRESENTATIVES STANDING COMMITTEE  
ON SOCIAL POLICY AND LEGAL AFFAIRS**

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## 1 Introduction

1. The Australian Human Rights Commission (the Commission) welcomes the opportunity to make this submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs in its Inquiry into Family, Domestic and Sexual Violence.
2. The Commission is an independent statutory agency with the role of promoting and protecting human rights under the *Australian Human Rights Commission Act 1986* (Cth). The Commission is Australia's National Human Rights Institution (NHRI) and is accredited as an 'A Status' NHRI under the United Nations' Paris Principles.<sup>1</sup> 'A Status' NHRIs are considered to have legitimacy and credibility within their country and on the international stage.

## 2 Summary

3. The Commission welcomed the *National Plan to Reduce Violence against Women and their Children 2010-2022* (the current National Plan), and the commitment from federal, state and territory governments to its implementation. The Commission considers the current National Plan to have been a strong and useful framework for reducing violence against women and their children.
4. In this submission, the Commission makes recommendations designed to inform the drafting of the next National Plan to Reduce Violence against Women and their Children (the next National Plan). Each sub-heading in this submission mirrors a Term of Reference of the Inquiry. The Commission has made recommendations under Terms of Reference A, C, D, E, F, H and I.

## 3 Recommendations

5. The Australian Human Rights Commission makes the following recommendations:

**Recommendation 1:** Australian Governments support and **fund primary prevention programs** to address gender inequality as one of the key drivers of family and domestic violence, using the *Change the Story* framework.

**Recommendation 2:** The Australian Government **create a National Cabinet Advisory Panel on Gender Equality** to improve coordination of efforts to combat violence against women across all jurisdictions.

**Recommendation 3:** The Australian Government prioritise measures to **increase women's economic security** and workforce participation by taking steps to close the gender pay gap, boost women's superannuation, decrease

industry gender segregation, support working parents and eliminate sexual harassment.

**Recommendation 4:** The Australian Government support workplaces to introduce family and domestic violence policies and programs and introduce uniform entitlements to paid **family and domestic violence leave**.

**Recommendation 5:** The Australian Government increase prevention measures that address the distinct impacts of family violence on children, and **support child-specific therapeutic intervention**, counselling and early intervention programs for child victims of family and domestic violence, delivered across a range of services.

**Recommendation 6:** The Australian Government ensure that the next National Plan addresses all forms of violence against women, including **technology-facilitated abuse and sexual harassment**. The National Plan should include measures through which government, in partnership with business and community sectors, will implement the recommendations from the *Respect@Work* report.

**Recommendation 7:** The next National Plan include measures to improve and consolidate **cross-jurisdictional data collection** in relation to intersectional experiences of family and domestic violence, and in relation to all deaths resulting from family and domestic violence.

**Recommendation 8:** The next National Plan continue to target and **address the intersectional impacts of violence**, including for Aboriginal and Torres Strait Islander women, rural women, women from culturally and linguistically diverse backgrounds, LGBTQI people, women with a disability, and older women.

**Recommendation 9:** The Australian Government **co-design with Aboriginal and Torres Strait Islander women** a series of targeted, specific actions within the next National Plan, with a substantial focus on inter-generational trauma and healing.

**Recommendation 10:** The Australian Government ensure that **family and domestic violence support services are viewed and funded as essential services during the COVID-19 period**. The next National Plan should provide for adequate, long-term and secure funding for accessible domestic violence support services, based on consultation to ensure needs are met.

## **4 A: Immediate and long-term measures to prevent violence against women and their children, and improve gender equality**

### **4.1 Continued focus on primary prevention**

6. Family, domestic and sexual violence is a persistent human rights abuse within Australia. Its prevalence remains at unacceptable levels despite efforts to target and reduce such violence in Australia.
7. The latest Australian Bureau of Statistics Personal Safety Survey (2016) (PSS) found that one in six women (17% or 1.6 million) and one in sixteen men (6.1% or 547,600) had experienced partner violence since the age of 15. Women were eight times more likely to have experienced sexual violence by a partner than men (5.1% or 480,200 women compared to 0.6% or 53,000 men).<sup>2</sup>
8. Violence against women, while prevalent, is preventable. The PSS reported that *'the proportion of women who experienced partner violence in the previous 12 months has remained relatively stable over the last decade.'*<sup>3</sup> This highlights the urgent need to address the root cause of family and domestic violence in order to change prevalence rates going forward.<sup>4</sup> Gender inequality has been recognised as a root cause of violence against women by the UN Committee on the Elimination of all forms of Discrimination against Women (CEDAW Committee) in its 19<sup>th</sup> General Recommendation,<sup>5</sup> as well as by the UN Secretary-General.<sup>6</sup>
9. One concerning manifestation of gender inequality in Australia is violence-supportive attitudes in the community. In the 2017 National Community Attitudes towards Violence against Women Survey (NCAS), one in five respondents believed domestic violence was a normal reaction to stress, and two in five respondents believed that women make up false reports of sexual assault to punish men.<sup>7</sup> There is an urgent need for appropriate education measures to eliminate violence-supportive attitudes based on conceptions of the inferiority or superiority of any sex and on stereotyped roles for men and women. In its most recent Concluding Observations on Australia in 2018, the CEDAW Committee recommended that Australia *'reinforce efforts to change behaviours and attitudes that lead to violence against women and their children and encourage reporting by launching awareness-raising campaigns on reporting mechanisms and remedies, in collaboration with the media.'*<sup>8</sup>
10. The Commission welcomed the commitment outlined in the Fourth Action Plan to place primary prevention at the core of efforts to eliminate violence against women and their children. Primary prevention refers to initiatives that target

the whole population and aim to transform the key drivers of violence against women, so that violence does not occur in the first place.

11. *Change the Story: A shared framework for the primary prevention of violence against women and their children in Australia (Change the Story)*<sup>9</sup> provides an evidence-based framework to guide efforts to prevent violence against women and their children. It demonstrates that effective primary prevention of violence against women and their children requires strategies that tackle gender inequality and other drivers of violence.
12. The Commission recommends that the next National Plan ensure a sustained focus on actions to promote effective primary prevention. The next National Plan should explicitly include a commitment for all jurisdictions to implement *Change the Story*. This should be accompanied by adequate resourcing of the *Change the Story* prevention framework, with a specific focus on allocating resources to establish a national prevention infrastructure.<sup>10</sup>
13. **Recommendation 1:** Australian Governments support and fund primary prevention programs to address gender inequality as the root cause of family and domestic violence, using the *Change the Story* framework.

#### **4.2 *Respectful Relationships programs***

14. The 2017 NCAS underlined the persistence of violence-supporting attitudes among young Australians. In that survey, one in three young people supported the statement that a female victim who does not leave an abusive partner is partly responsible for the abuse continuing.<sup>11</sup>
15. Respectful Relationships is an effective schools-based education program to develop children and young people's understanding of gender equality and their capacities to build healthy and respectful relationships. Evaluations of Respectful Relationships projects indicate that, overall, they have a positive impact on students.<sup>12</sup> In 2015, all Australian governments agreed to strengthen Respectful Relationships education in the Australian curriculum.
16. However, currently the provision of Respectful Relationships education differs between states and territories. There is a clear role for the federal government to ensure that Respectful Relationships education is provided consistently in all Australian schools. The education should be age-appropriate, evidence-based, and address the drivers of gender-based violence. It should explicitly address the drivers and consequences of homophobia and transphobia. It should also identify sexual harassment as a form of gender-based violence, a key recommendation from the *Respect@Work* Report.<sup>13</sup>

**5 C: The level and impact of coordination, accountability for, and access to services and policy responses across the Commonwealth, state and territory governments, local governments, non-government and community organisations, and business.**

**5.1 Improving coordination across governments**

17. Whilst the current National Plan provides for some evaluation of efforts to prevent and respond to family, domestic and sexual violence, the Commission considers there is room to improve evaluation practices under the next National Plan.
18. The now disbanded COAG Advisory Panel on Reducing Violence Against Women served an important role in supporting evaluation, monitoring and transparency of efforts to combat violence against women across the federal and state/territory levels. The creation of the National Domestic Violence Orders (DVO) Scheme in 2017, which ensures that DVOs issued in one state or territory are automatically enforceable across Australia, is one example of the Panel's useful and concrete work. The new National Cabinet structure offers an excellent opportunity to re-establish a similar entity by creating a National Cabinet Advisory Panel on Gender Equality. Such an Advisory Panel would retain a strong focus on violence against women, whilst its broader scope of 'gender equality' would enable holistic efforts to combat the drivers of that violence, including gender inequality.
19. This Advisory Panel could coordinate the transparent implementation, monitoring and evaluation of the next National Plan. It could also serve as a mechanism for consultation on other National Cabinet measures which may impact efforts to combat violence against women. Evaluation results should be made public, and conducted early and regularly enough to inform and guide future actions.
20. Several states and territories have run inquiries into family and domestic violence, often following local tragedies. The Advisory Panel would be an effective tool to ensure that lessons learned in one inquiry are shared with all jurisdictions, and that responses are aligned. For instance, the Victorian Royal Commission into Family Violence,<sup>14</sup> finalised in 2016, has many useful recommendations which could be progressed in all jurisdictions.
21. **Recommendation 2:** The Australian Government create a National Cabinet Advisory Panel on Gender Equality to improve coordination of efforts to combat violence against women across all jurisdictions.

## **6 D: The way that health, housing, access to services, including legal services, and women’s economic independence impact on the ability of women to escape domestic violence.**

### **6.1 Women’s economic security**

22. A focus on improving women’s economic security and workforce participation is crucial to facilitating the ability of women to escape domestic violence without risking poverty or homelessness.
23. There are a range of gender equality gaps in Australia that impact on women’s economic independence:
  - The national gender pay gap (the difference between women’s and men’s average weekly full time equivalent earnings) is currently 13.9%.<sup>15</sup>
  - Women continue to be under-represented in the workforce, with a workforce participation rate of 61.4% compared to 70.9% for men.<sup>16</sup>
  - When employed, women are more likely to work in part-time roles. Women constitute just 37.7% of all full-time employees, but 68.2% of all part-time employees.<sup>17</sup>
  - The median superannuation balance for women at retirement (60-64 years old) is 20.5% lower than that for men.<sup>18</sup>
  - One in two mothers has experienced workplace discrimination at some point during pregnancy, parental leave or on return to work.<sup>19</sup>
  - 39% of women experienced workplace sexual harassment in the five years leading up to 2018.<sup>20</sup>
24. The Commission has also consistently highlighted other issues for women in the workplace, including occupational segregation,<sup>21</sup> the under-valuing of unpaid care work,<sup>22</sup> access to affordable childcare,<sup>23</sup> low representation in leadership and management positions,<sup>24</sup> and access to adequate paid parental leave.<sup>25</sup>
25. These economic equality gaps, combined with a lack of availability of secure, affordable housing options for women,<sup>26</sup> combine to decrease women’s ability to escape domestic violence situations. Older women are also impacted by a lack of affordable housing – indeed, older women were the fastest growing cohort of homeless Australians between 2011 and 2016, increasing by 31%.<sup>27</sup>



26. Violence against women also reduces women's participation in the workforce and impacts their economic security.<sup>28</sup> In 2011, 48% of respondents to the National Domestic Violence and the Workplace Survey who had experienced family and domestic violence said it had affected their ability to get to work.<sup>29</sup> The financial security that paid employment affords victims of family and domestic violence not only allows them to escape becoming trapped and isolated in violent and abusive relationships, but also allows them to maintain their health and their ability to care for and educate their children.<sup>30</sup>
27. Violence against women in the workplace also has negative consequences on women's economic security and workplace productivity. The Commission's *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* found that 39% of Australian women had experienced sexual harassment at work in the past five years, and that 10% of those women had suffered negative financial consequences as a result of the most recent incident.<sup>31</sup> In *Respect@Work*, Deloitte Access Economics estimated that workplace sexual harassment alone cost the Australian economy \$3.8 billion in 2018, as a result of its heavy productivity consequences for workplaces among other factors.<sup>32</sup>
28. Whilst Australia has made some progress on improving women's economic security in recent years, the disproportionate negative financial impact of COVID-19 on women is likely to reverse this progress if governments do not take urgent action.<sup>33</sup> Between mid-March and mid-June 2020, payroll jobs held by women decreased by 6.5% compared to 5.8% for men.<sup>34</sup> Women's hours worked also decreased by 7.3%, compared to 6.5% for men.<sup>35</sup>
29. There are a range of practical ways the Australian government could increase women's economic security and boost women's workforce participation. These measures include improving access to affordable childcare, expanding the National Rental Affordability Scheme and making it gender-responsive, reducing barriers to employees entering male- and female-dominated workplaces, ensuring that job creation efforts are spread across industries to benefit women and men, upskilling women in STEM and digital literacy, improving conditions for part-time and casual workers, expanding the minimum period of government-funded paid parental leave, taking steps to eliminate workplace sexual harassment, and changing superannuation norms to better support those who take time out of the paid workforce to deliver unpaid care.
30. In 2014, the Commission conducted the *Supporting Working Parents: Pregnancy and Return to Work National Review*.<sup>36</sup> As part of the Review, the Commission carried out a National Prevalence Survey which identified pervasive workplace discrimination during pregnancy, parental leave and return to work in Australia. The Review concluded that eradicating this kind of

discrimination had to start with ensuring that employers and employees understood their legal obligations and entitlements. In 2015, the Commission launched a website and series of online resources to help employers and employees understand their duties and rights in relation to pregnancy, parental leave and return to work arrangements.<sup>37</sup> The Commission recommends that the next National Plan include support for the Commission to undertake a broad-ranging review of the experience of working parents. This should include a National Prevalence Survey on discrimination in the workplace focused on pregnancy and return to work, to evaluate progress since 2014 and inform future policy.

31. Violence against women also impacts the ability of women to stay in the paid workforce.
32. **Recommendation 3:** The Australian Government prioritise measures to increase women's economic security and workforce participation by taking steps to close the gender pay gap, boost women's superannuation, decrease industry gender segregation, support working parents and eliminate sexual harassment.

## **6.2 Domestic violence leave**

33. Australia has taken some positive steps to enabling working women experiencing domestic violence to escape their situation whilst maintaining their employment. In 2013, the Fair Work Act 2009 (Cth) was amended to grant employees who are experiencing domestic violence the right to request flexible working arrangements to assist them with these circumstances.<sup>38</sup> Leave and other protections are also available through domestic violence clauses in the agreement or award conditions of over 1 million Australians.<sup>39</sup>
34. However, the Commission is concerned that there are no comprehensive and consistent workplace protections for employees who experience family and domestic violence across all Australian jurisdictions. The Commission supports the creation of an entitlement to paid family and domestic violence leave applicable across all workplaces.<sup>40</sup>
35. **Recommendation 4:** The Australian Government support workplaces to introduce family and domestic violence policies and programs and introduce uniform entitlements to paid family and domestic violence leave.

## **6.3 Improving targeted services for children**

36. Most violence against children is committed by someone that the child knows, the family being the most common setting. The PSS revealed that 13% of Australian adults (2.5 million people) have experienced physical and/or sexual abuse before the age of fifteen. This includes 1.6 million adults (8.5%) who

experienced childhood physical abuse and 1.4 million adults (7.7%) who experienced childhood sexual abuse.<sup>41</sup> Of these, 94% reported experiencing the abuse by someone known to them, who, in the case of physical abuse, was most commonly a parent (including step-parents).<sup>42</sup>

37. Children are also frequently witnesses and bystanders of violence in the family, commonly violence directed at their mother.<sup>43</sup> Almost 896,700 men and 1.2 million women have reported witnessing violence, before the age of 15, against their mother, and 380,000 men and 440,900 women have reported witnessing violence, before the age of 15, against their father.<sup>44</sup>
38. In her Children's Rights Report 2019, *In Their Own Right: Children's Rights in Australia*, the former National Children's Commissioner highlighted children's experiences of family violence, and its long-term impacts on children. Children's experiences of violence in the family are associated with a range of mental health, cognitive and behavioural problems, developmental difficulties and poorer academic outcomes.<sup>45</sup> According to the PSS, women who, as children, witnessed violence towards their mother or their father by a partner, were more than twice as likely to be the victim of partner violence themselves, compared with women who had not witnessed this violence.<sup>46</sup> Men who witnessed violence towards their mother by a partner were at least twice as likely to be the victim of partner violence compared with men who had not.<sup>47</sup> Some studies have also shown a correlation between childhood witnessing of domestic violence and adult perpetration.<sup>48</sup>
39. While there are some services available to support children affected by family and domestic violence, limited information exists about the extent that these are made available to or accessed by children, or the outcomes for children who use such services.<sup>49</sup> Children are often supported in the context of the needs of the parent escaping family and domestic violence, rather than in response to their specific therapeutic needs. The current National Plan aims to achieve 'a significant and sustained reduction in violence against women and their children'.<sup>50</sup> While reducing the proportion of children exposed to domestic violence is one of the key indicators under the Plan, its critical focus is on women, not children.
40. The next National Framework for Protecting Australia's Children and the next National Plan should include strategies and initiatives that meet the distinct services and support needs of children who are exposed to, or are direct victims of, all forms of violence, abuse and neglect in the home.
41. **Recommendation 5:** The Australian Government increase prevention measures that address the distinct impacts of family violence on children, and support child-specific therapeutic intervention, counselling and early intervention programs for child victims of family and domestic violence, delivered across a range of services.

## **7 E: All forms of violence against women, including, but not limited to, coercive control and technology-facilitated abuse**

42. The early Action Plans under the current National Plan tended to focus on family and domestic violence. We know that violence against women in all its forms is interconnected and driven by gender inequality. The Commission welcomed the broadening of focus in the Fourth Action Plan, to include sexual harassment and technology-facilitated abuse. This broad focus should be continued in the next National Plan.

### **7.1 Technology-facilitated abuse**

43. Technology provides many opportunities to progress gender equality, including access to flexible work, diverse collaboration, improved connection, and greater innovation. Online platforms are a powerful tool for women to increase their social connectedness and improve their economic security and access to information. There are new and lucrative work opportunities in the male-dominated technology industry and potential to increase the participation of women and girls in STEM industries. Social media can amplify the voices of women who are often left behind in public debates.

44. However, technology can also be a vehicle for abuse and harassment, including in family and domestic violence and workplace contexts.<sup>51</sup> A 2015 survey of domestic violence frontline workers found that 98% of respondents had clients who had experienced technology-facilitated stalking and abuse.<sup>52</sup> Social media can also be used to silence high profile women and to subject women who advocate on women's rights issues to online harassment and abuse.<sup>53</sup> Online abuse reduces women's opportunities to engage online. It can also have devastating impacts on women's mental health and wellbeing, reputations, careers and lives.<sup>54</sup>

45. The eSafety Commissioner is recognised internationally as a world leader in addressing violence against women through technology. The eSafety Commissioner's *Women Influencing Tech Spaces* project is an excellent example of an initiative which is successfully equipping women to interact online safely and with impact.<sup>55</sup> The next National Plan should include support to continue and expand the work of the eSafety Commissioner to provide resources and training to Australians to improve their online safety.

### **7.2 Sexual harassment**

46. The Commission's *Respect@Work: National Inquiry into Sexual Harassment in Australian Workplaces* report (*Respect@Work*) was tabled in Parliament on 5 March 2020.<sup>56</sup> *Respect@Work* drew on the Commission's 2018 national survey of workplace sexual harassment, as well as comprehensive modelling

of the economic costs of workplace sexual harassment by Deloitte Access Economics.

47. *Respect@Work* examined the nature, prevalence and drivers of sexual harassment in Australian workplaces, and measures to address and prevent it. *Respect@Work* identified that sexual harassment is a form of violence against women, and is driven by gender inequality. The report concluded that sexual harassment is widespread and pervasive. In 2018, one in three Australian workers had experienced workplace sexual harassment in the last five years, up from one in five workers in 2012.<sup>57</sup> Deloitte Access Economics estimated that workplace sexual harassment cost the Australian economy \$3.8 billion in 2018.<sup>58</sup>
48. *Respect@Work* revealed an urgent need to shift from Australia's current reactive, complaints-based approach to one that requires positive action from employers and which focuses on prevention. *Respect@Work* proposes a new approach which builds upon Australia's existing policies and initiatives, through 55 recommendations which fall under five key areas of focus:
  - Improved data and research to deliver useful, industry-based information about the nature of sexual harassment and effective responses.
  - Primary prevention of sexual harassment through education, media and community wide initiatives.
  - A refocused legal and regulatory framework which recognises the mutually reinforcing roles of discrimination, workplace and safety laws.
  - Better workplace prevention and responses which are leader driven, practical and adaptable.
  - Better support, advice and advocacy for people who experience sexual harassment.
49. The Commission recommends that the next National Plan incorporate adequate measures for the prevention of and response to sexual harassment in the workplace, based on the implementation of the *Respect@Work* recommendations. The next National Plan should also include resourcing for the Commission to undertake future surveys of sexual harassment in Australian workplaces, as an important means to evaluate progress under the National Plan.
50. **Recommendation 6:** The Australian Government ensure that the next National Plan addresses all forms of violence against women, including technology-facilitated abuse and sexual harassment. The National Plan should include measures through which government, in partnership with business and community sectors, will implement the recommendations from the *Respect@Work* report.

## **8 F: The adequacy of the qualitative and quantitative evidence base around the prevalence of family and domestic violence and how to overcome limitations in the collection of nationally consistent and timely qualitative and quantitative data including, but not limited to, court, police, hospitalisation and housing**

51. The Commission notes that Australia has made a significant effort to collect data on family and domestic violence. The *National Community Attitudes towards Violence against Women Survey*, the Australian Bureau of Statistics *Time Use Survey*, and the work of the Workplace Gender Equality Agency are all valuable inputs to Australia's growing evidence base. The Commission has also collected useful and timely data sets, including through its four national surveys on sexual harassment in Australian workplaces,<sup>59</sup> the *Change the Course: National Report on Sexual Assault and Sexual Harassment in Australian Universities*,<sup>60</sup> and the *Supporting Working Parents: Pregnancy and Return to Work National Review*.<sup>61</sup>

### **8.1 Coordinating lessons learned from FDV homicides**

52. In January 2017, Sex Discrimination Commissioner Kate Jenkins released a report recommending improvements to the collection of nationwide data on patterns and trends in family and domestic violence-related homicides.<sup>62</sup> The report outlined the current disparate approaches to gleaning lessons on family and domestic violence-related deaths, and the compelling need for nationally-consistent death reviews for femicide and filicide.
53. In its report, the Commission recommended that a national minimum dataset on family and domestic violence death be created, with contributions from all Commonwealth, State and Territory governments. The collection of meaningful national-level data would ensure that prevention measures are timely and based on empirical evidence.
54. The Commission also recommended that the Australian Government consider establishing an entity with (or allocating to an existing entity) a mandate to monitor and report on national domestic violence deaths and the implementation of coronial recommendations made to government agencies.

### **8.2 Improving data on intersectional experiences**

55. Whilst violence can affect women regardless of their race, cultural background, socioeconomic status or age, research suggests that particular population groups are more at risk of violence, or more extreme forms of violence.<sup>63</sup> Australia continues to have poor knowledge of the prevalence rates and specific risks and challenges faced by population groups at higher risk of

experiencing violence. This poor knowledge inhibits evidence-based policy making and the effectiveness of violence prevention and response strategies.

56. For example, available data on the experiences of women and children with disability of family, domestic and sexual violence is limited. The PSS, which is conducted every four years, should be a key source of this data.<sup>64</sup> However, the Australian Bureau of Statistics does not specifically report on the experiences of women and children with disability of family, domestic and sexual violence within the PSS. The few statistics that are available are based on further analysis by the Australian Institute of Health and Welfare.<sup>65</sup>
57. The next National Plan should include specific data collection and research on the experiences and needs of Aboriginal and Torres Strait Islander women, culturally and linguistically diverse women, LGBTQI people, women with a disability, rural women and older women. This data is crucial to informing effective prevention and early intervention measures targeted at these groups.

### **8.3 *Improving data on children and young people's experiences***

58. There is also an urgent need for better national, disaggregated data on children's experiences of family and domestic violence.<sup>66</sup> In 2018, girls and young women aged 15–19 years had the highest rates of reported sexual assault of any sex or age group, followed by girls aged 10–14 years.<sup>67</sup> There are also indications that an increasing number of girls aged 15–17 and young women are victims of violence perpetrated by their partners.<sup>68</sup>
59. In particular, there is a need for more national, disaggregated data on groups of children who are disproportionately affected by family and domestic violence, so that prevention, intervention and therapeutic measures can be targeted appropriately. Children with disability, those from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander children, LGBTQI children, and children living in remote areas are likely to be disproportionately affected by family violence, but data for these children is limited or non-existent.<sup>69</sup>
60. The Australian Government, through cooperation between the Office of the National Data Commissioner, the Australian Bureau of Statistics and the Australian Institute of Health and Welfare, should develop a national children's data framework to ensure appropriate national data collection that supports monitoring and policy making on children's rights issues. This framework should address the key data gaps relating to children's rights and wellbeing. It should be consistent with the requirements set out by the Committee on the Rights of the Child in its Guidelines on the inclusion of statistical information and data in periodic reports. It should also enable disaggregation by developmental phases, age groupings, and priority population groups.

61. **Recommendation 7:** The next National Plan include measures to improve and consolidate cross-jurisdictional data collection in relation to intersectional experiences of family and domestic violence, and in relation to all deaths resulting from family and domestic violence.

**9 H: The experiences of all women, including Aboriginal and Torres Strait Islander women, rural women, culturally and linguistically diverse women, LGBTQI women, women with a disability, and women on temporary visas**

62. Australia cannot achieve gender equality without understanding the diversity of women’s experiences. Many women face multiple and intersecting barriers to safety and equality. The experience and expertise of all women must be represented in the policy and program development of the next National Plan if it is to meet the user and service needs of diverse women and provide effective and meaningful protection of diverse women from violence in their communities.

63. The next National Plan should explicitly target and address the intersectional impacts of violence, including for Aboriginal and Torres Strait Islander women, rural women, women from culturally and linguistically diverse backgrounds, LGBTQI people, women with a disability, and older women. The Commission provides further detail on the specific needs of these groups below.

64. **Recommendation 8:** The next National Plan continue to target and address the intersectional impacts of violence, including for Aboriginal and Torres Strait Islander women, rural women, women from culturally and linguistically diverse backgrounds, LGBTQI people, women with a disability, and older women.

**9.1 Aboriginal and Torres Strait Islander Women**

65. Within Aboriginal and Torres Strait Islander communities, ‘family violence’ is the most widely-used term to capture varying forms of violence, as it includes the extended family and kinship relationships in which violence can occur.<sup>70</sup> The majority of perpetrators of family violence are men – including both Aboriginal and Torres Strait Islander men and non-Indigenous men.

66. Structural disadvantage and discrimination undermines and denies the full realisation of Aboriginal and Torres Strait Islander women’s rights and safety. This ingrained systems deficit perpetuates endemic rates of violence against Aboriginal and Torres Strait Islander women which are captured in the statistics below. It is also important to note that whilst the reported rates of family violence are high, instances of violence are underreported.<sup>71</sup>

- Aboriginal and Torres Strait Islander women experience violence at 3.1 times the rate of non-Indigenous women.<sup>72</sup>



- The rate of partner homicide for Aboriginal and Torres Strait Islander peoples is two times that of non-Indigenous Australians.<sup>73</sup>
- Family violence contributes five times more to the burden of disease for Aboriginal and Torres Strait Islander peoples than non-Indigenous Australians, and is a greater risk factor to their health than tobacco, high cholesterol or the use of illicit drugs.<sup>74</sup>

**(a) *Prevention initiatives grounded in context***

67. As highlighted earlier in this submission, prevention efforts require the context and environments in which violent behaviours are formed to be addressed. For Aboriginal and Torres Strait Islander women, prevention strategies must be grounded in self-determination and focused on healing and restoration of social and cultural values.<sup>75</sup>
68. Experiences of marginalisation, disadvantage and discrimination encountered by Aboriginal and Torres Strait Islander women and their children are drivers of violence against them.
69. The Commission has been undertaking national consultations with Aboriginal and Torres Strait Islander women and girls through the *Wiyi Yanu U Thangani* project. The report of this national consultation will be released in late 2020. A clear and consistent message from these consultations is that Aboriginal and Torres Strait Islander women's voices and experiences must be central to the design of policies and systems. Aboriginal and Torres Strait Islander women should also be supported and mentored into leadership roles. The consultations have heard that:
- Aboriginal and Torres Strait Islander women's capabilities, resilience and inherent social and cultural values are key to combatting and overcoming historical injustice, structural barriers and centuries of transmitted and cumulative trauma.
  - The improvements women and girls envision for their communities would benefit not only themselves, but their entire community: men and women, boys and girls.
70. The experiences and needs of Aboriginal and Torres Strait Islander women are very different to non-Indigenous women. As part of the next National Plan, there should be a specific, tailored focus on actions to reduce violence against Aboriginal and Torres Strait Islander women and their children. These should be co-designed with Aboriginal and Torres Strait Islander women to prioritise their voices, unique experiences and specific needs.

**(b) Access to holistic services**

71. To move away from short-term, crisis-driven interventions, the next National Plan should establish a holistic model of access to services for Aboriginal and Torres Strait Islander women and children. This will require investing in Aboriginal and Torres Strait Islander community-controlled organisations and empowering Aboriginal and Torres Strait Islander women to design and deliver the reforms needed. Aboriginal and Torres Strait Islander community-controlled organisations are best placed to deliver the services required to respond to immediate harms, enable healing and implement preventative measures.
72. Women’s shelters are an example of the type of holistic wrap-around support that should be invested in. These empowerment-based, community-controlled services give Aboriginal and Torres Strait Islander women and their children a safe space whilst responding to their co-occurring needs. Currently, many shelters are under-resourced and at capacity, leaving Aboriginal and Torres Strait Islander women and their children with limited options but to return to unsafe environments.
73. A major theme to also emerge in the *Wiyi Yanu U Thangani* consultations is the importance of understanding and addressing inter-generational trauma if substantial progress is to be made in closing the gap across all socio-economic and cultural indicators of wellbeing for Aboriginal and Torres Strait Islander women.
74. Of particular relevance to this Inquiry, this requires substantial investments in community-led healing initiatives to address trauma. This could include:
- adequately funding community-based healing initiatives through the National Healing Foundation;
  - all Australian governments committing to mandatory healing and trauma-informed training across the entire human services sector, both within governments and for organisations that are funded to deliver services to Aboriginal and Torres Strait Islander women, children and families; and
  - supporting the development of trauma-informed accredited training and qualifications, with a workforce development strategy for Aboriginal and Torres Strait Islander women.
75. **Recommendation 9:** The Australian Government co-design with Aboriginal and Torres Strait Islander women a series of targeted, specific actions within the next National Plan, with a substantial focus on inter-generational trauma and healing.

## **9.2 Women with a Disability**

76. In 2019, Australian women with disability were almost twice as likely to experience physical or sexual violence from a current or previous partner in the previous 12 months than women without disability, and significantly more likely to experience emotional abuse by a partner or sexual violence.<sup>76</sup>
77. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (DRC) was established in April 2019 in response to community concern about widespread reports of violence against people with disability. The Commission has made two submissions to the DRC, one on inclusive education and another on access to justice.<sup>77</sup>
78. Violence against women and children with disability is frequently not reported, and when reported, often results in minimal sentences.<sup>78</sup> Studies suggest that reasons for underreporting include shame, fear of having children taken away, fear of losing supports or being rendered homeless, fear of not being believed, and lack of access to necessary information among women with disability and their carers.<sup>79</sup>
79. An additional complication is the lack of clarity around the issue of whether congregate or supported living settings are ‘family’ or ‘domestic’. For example, in both Victoria and New South Wales, ‘family violence’ includes actions of a paid carer, whereas in Queensland the definition does not include carers acting under a commercial arrangement. Nor does the 2016 PSS include people living in congregate settings.
80. The accessibility of support services is a significant factor in the underreporting of violence by women with disability. While improvements have been made in physical access,<sup>80</sup> services are only genuinely accessible when they are ‘approachable, acceptable, appropriate, affordable and available to women with disabilities’.<sup>81</sup> In other words, in addition to physical access, services must be provided in a way that ensures that women with disability know that the services exist and can help them, and that they will be ‘received, acknowledged, and heard’ when accessing such services.<sup>82</sup>
81. Women and children with disability experiencing family, domestic and sexual violence need disability-specific supports. This will rarely be achieved by one sector alone.<sup>83</sup> Currently, while National Disability Insurance Scheme (NDIS) rules permit scheme participants to use non-NDIS service providers, systemic cross-sector collaboration is not occurring with the same frequency as happened pre-NDIS.<sup>84</sup> The next National Plan should promote collaboration between services, which will be key to an optimal government response. It should provide for sufficient training for service providers, including NDIS planners, to identify potential family, domestic and sexual violence among

participants.<sup>85</sup> This would enable planners to pro-actively identify incidents and source appropriate external supports.

82. Women and children with disability also face additional risks to those without disability in the context of family, domestic and sexual violence, such as forced sterilisation and violence in a congregate or shared living arrangement. There are several actions available to government to respond to these additional risks, which could be incorporated into the next National Plan. These include adopting uniform legislation prohibiting sterilisation of people with disability without their consent; implementing a nationally consistent supported decision-making framework; developing a nationally consistent definition of domestic and family violence which includes all congregate and shared living arrangements; and developing a national framework with a view to eliminating the use of restrictive practices.

### **9.3 Older Women**

83. Older women risk experiencing family, domestic and sexual violence in the form of elder abuse. The World Health Organization (WHO) defines elder abuse as ‘a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person.’<sup>86</sup> In 2017, WHO estimated that one in six people aged over 60 worldwide were subjected to some form of elder abuse.<sup>87</sup> The Victorian Royal Commission into Family Violence,<sup>88</sup> established in 2015, included elder abuse as a form of family violence.<sup>89</sup>
84. In common with other forms of family and domestic violence, elder abuse can be physical, financial, psychological, sexual or take the form of neglect.<sup>90</sup> As with other forms of family violence, elder abuse is often hidden and underreported. As little is known currently about the prevalence of elder abuse in Australia, the Attorney-General’s Department has funded the Australian Institute of Family Studies (AIFS) to undertake a national prevalence study<sup>91</sup> under the National Plan to Respond to the Abuse of Older Australians.<sup>92</sup>
85. In the interim, based on WHO research, AIFS considers that between 2% and 14% of older Australians experience elder abuse in any given year.<sup>93</sup> AIFS research shows that female victims outnumbered male victims, and the proportion of women experiencing elder abuse rises generally in line with age.<sup>94</sup> Based on analysis of data from the Australian Longitudinal Study on Women’s Health, AIFS estimated that neglect could be as high as 20% among women in the older age group. The Commission also directs the Committee’s attention to the OPAL Institute, which undertakes research into and provides resources on the sexual abuse of older women.<sup>95</sup>
86. Adult children of the victim are the most common perpetrators of elder abuse (60%),<sup>96</sup> with slightly more sons than daughters perpetrating abuse (31%

sons, 29% daughters).<sup>97</sup> This may affect particular outcomes commonly desired by victims of elder abuse. A study by the National Ageing Research Institute Ltd found that victims tended to want recompense and support for the perpetrator, as well as to reset relationships.<sup>98</sup>

87. The next National Plan should ensure that the specific needs of older women who experience family, domestic and sexual violence are targeted and addressed.

#### **9.4 LGBTQI People**

88. The Commission welcomes the recognition of lesbian, bisexual, trans and intersex women's experiences reflected by the use of the term 'LGBTQI women' in this term of reference. However, the Commission is concerned that this framing fails to recognise family, domestic and sexual violence experienced by people who are not women, such as trans people, non-binary people, and gay and bi/pansexual men. The Commission encourages the Inquiry to address the particular experiences of LGBTQI people, regardless of whether victims are women/girls, to ensure that the human right to be free from violence is respected for all.
89. In 2014 and 2015, the Commission conducted a *National Consultation on Sexual Orientation, Gender Identity and Intersex Rights*. A number of participants in the Consultation raised concerns about the rates of family and domestic violence in LGBTQI communities and the lack of inclusive services for LGBTQI people.<sup>99</sup> In a survey conducted by the Australian Research Centre for Health and Sexuality, 28% of male-identifying respondents and 41% of female-identifying respondents reported having been in a relationship where a partner was abusive.<sup>100</sup>
90. In addition to violence perpetrated by an intimate partner, LGBTQI people may also face abuse and violence from others within their own families. A 2010 national survey of LGBTQI young people aged 14 to 21 years found that 24% of respondents had experienced verbal and physical abuse in the family home.<sup>101</sup>
91. In general, the limited data we have suggests that LGBTQI people experience family, domestic and sexual violence at similar rates to those who are heterosexual and cis-gendered. However, modes of violence may differ. Abusive partners within LGBTIQ relationships may use homo/bi/transphobia or heterosexism to exercise power and control.<sup>102</sup> Perpetrators may use their partner's sexuality or identity as a form of control by threatening to tell their partner's employer, parent, children, landlord or friends about their same-sex relationship or trans or non-binary identity, or HIV status.

92. Heterosexism, homophobia, biphobia and transphobia also affect access to services and responses from service providers and the justice system. Barriers include discrimination (real or feared), lack of awareness and sensitivity of service providers to LGBTQI issues, lack of recognition of intimate partner violence in LGBTQI relationships, and heteronormative understandings of gender and intimate partner violence.<sup>103</sup>
93. The next National Plan should include measures to build the capacity and knowledge of health care workers, domestic violence support services and the justice system through education and training, in order to improve understandings and responses and prevent further violence in LGBTQI communities.<sup>104</sup>

### **9.5 Culturally and Linguistically Diverse Women**

94. The 2015 *Landscapes: State of Knowledge Paper* prepared by the Australian National Research Organisation for Women's Safety reported that '[f]amily violence policy and response systems have not been sufficiently inclusive of immigrant and refugee women's needs and experiences of violence. Immigrant and refugee women have limited access to preventative and early intervention programs across Australia and as a result are over-represented in the crisis response system. While many policy and reform documents have contained statements about diversity, the lack of follow-through limits the extent to which policy has led to effective gains within immigrant and refugee communities. Furthermore, inadequate funding has been allocated for policy and program implementation that specifically addresses the needs of immigrant and refugee communities.'<sup>105</sup>
95. During the qualitative consultation process for the Commission's *Sharing the Stories of Australian Muslims*<sup>106</sup> project, community organisations noted that they were often unsuccessful during funding rounds but would subsequently be contacted by mainstream organisations, who were successful in funding processes, to facilitate the design and delivery of targeted service supports. These funding decisions impacted the ability of community organisations to solve issues impacting their communities in an effective way. The Federation of Ethnic Community Councils Association has also reported that support services are rarely designed from the user perspective of multicultural women.<sup>107</sup>
96. The Commission considers that, to maximise impact and outcomes for multicultural women and families, the perspectives and needs of multicultural women should be explicitly considered during the design of services and the user experience. To achieve this, services should be designed and delivered by organisations with expertise and existing trust relationships with targeted communities.

97. The next National Plan should provide educational and support programs and messaging aimed at men within culturally diverse communities. Supports and programs must be culturally literate to promote effective behavioural change among culturally diverse men. The Commission supports the recommendations of the *South Australian Multicultural and Ethnic Affairs Commission Report on Domestic Violence in CALD Communities*.<sup>108</sup>

**10 I: The impact of natural disasters and other significant events such as COVID-19, including health requirements such as staying at home, on the prevalence of domestic violence and provision of support services**

98. COVID-19 has revealed the real risks posed by gender inequality to the safety of Australian women and children. It has also illustrated how quickly government can respond – and communities can adapt – when systems and structures are changed in the common interest.
99. The Australian Institute of Criminology recently released findings from an online survey of 15,000 Australian women about their experience of domestic violence during the initial stages of the COVID-19 pandemic.<sup>109</sup> In the three months prior to the survey, conducted in May 2020, 4.6% of respondents experienced physical or sexual violence from a current or former cohabiting partner. Almost 6% of respondents experienced coercive control, and 11.6% reported experiencing at least one form of emotionally abusive, harassing or controlling behaviour. Two-thirds of the women who experienced physical or sexual violence by a current or former cohabiting partner since the start of the COVID-19 pandemic said the violence had started or escalated in the three months prior to the survey. Many also reported that safety concerns were a barrier to help-seeking.<sup>110</sup>
100. While the survey did not allow for cause-effect relationships to be established, the report nevertheless concluded that:  
*It appears likely that the conditions and consequences associated with the COVID-19 pandemic contributed to an increase in domestic violence. These drivers of increased violence are complex, but likely involve some combination of the increased time spent at home, social isolation due to social distancing requirements and financial stressors associated with the economic impact of COVID-19.*<sup>111</sup>
101. Indeed, it seems likely that increased financial insecurity and reduced ability to leave the home in the COVID-19 environment have increased pressure on situations of family and domestic violence.<sup>112</sup> Access to help may also have diminished, with some refuges and programs having closed or restricted their services due to COVID-19. Forms of violence have also evolved to reflect the restrictions of COVID-19. Between 15 March and 14 May 2020, the eSafety

Commissioner received more than double the standard number of reports about some forms of online abuse, including cyber abuse, with over two-thirds of complainants being women. Over the first half of 2020, traffic to eSafety's information and training about technology-facilitated violence against women has doubled.<sup>113</sup>

102. Clearly, COVID-19 has exacerbated existing challenges and created new ones in the family, domestic and sexual violence space. Initiatives designed to prevent violence and services supporting women to flee violence should be explicitly designated as essential services throughout the pandemic period. Ensuring the availability of childcare should be prioritised so that women can continue to work. Government directives on COVID-19 should leave room for employers to make reasonable accommodations for workers who may not be safe working from home. The continuity of child-centred services, including safe shelters and helplines for children, should also be prioritised.
103. However, COVID-19 can also be a turning point for improved measures to combat family and domestic violence. The economic and societal flux created by COVID-19 is an opportunity to improve response levers to violence against women, including expanding emergency lists and online service provision in courts, building capacity in the response system to tackle technology-facilitated abuse, and building a gender-responsive national housing strategy. These measures should be implemented following consultation to ensure that victim needs are recognised and met.
104. **Recommendation 10:** The Australian Government ensure that family and domestic violence support services are viewed and funded as essential services during the COVID-19 period. The next National Plan should provide for adequate, long-term and secure funding for accessible domestic violence support services, based on consultation to ensure needs are met.

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<sup>4</sup> Secretary-General, *In-depth Study on all forms of Violence against Women* (2006), UN Doc. A/61/122/Add.1.

<sup>5</sup> CEDAW Committee, *General Recommendation No. 19: Violence against Women*, UN Doc. A/47/38 (1992).

<sup>6</sup> Secretary-General, *In-depth Study on all forms of Violence against Women* (2006), UN Doc. A/61/122/Add.1.



<sup>7</sup> V Politoff et al, *Young Australians' attitudes to violence against women and gender equality: Findings from the 2017 National Community Attitudes towards Violence against Women Survey*, Australia's National Research Organisation for Women's Safety (ANROWS) (Report, 2019) 28.

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<sup>12</sup> Department of Social Services (Commonwealth), *Respectful Relationships Evaluation: Summary of findings* (July 2014) <[www.dss.gov.au/women/publications-articles/respectful-relationships-evaluation-summary-of-findings](http://www.dss.gov.au/women/publications-articles/respectful-relationships-evaluation-summary-of-findings)>; Karen Struthers, Natalie Parmenter and Clare Tilbury, *Young People as Agents of Change in Preventing Violence against Women*, Australia's National Research Organisation for Women's Safety (ANROWS) (2019) 2.

<sup>13</sup> Australian Human Rights Commission, *Respect@Work: National Inquiry into sexual harassment in Australian Workplaces* (2020). At <https://humanrights.gov.au/our-work/sex-discrimination/publications/respectwork-sexual-harassment-national-inquiry-report-2020> (viewed 13 July 2020).

<sup>14</sup> Victorian Royal Commission into Family Violence, *Summary and Recommendations* (2016). At <http://rcfv.archive.royalcommission.vic.gov.au/MediaLibraries/RCFamilyViolence/Reports/Final/RCFV-Summary.pdf> (viewed 13 July 2020).

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<sup>16</sup> Workplace Gender Equality Agency, *Gender workplace statistics at a glance* (2020). At <https://www.wgea.gov.au/data/fact-sheets/gender-workplace-statistics-at-a-glance> (viewed 13 July 2020).

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<sup>22</sup> See for example Australian Human Rights Commission, *Recognising and Valuing Unpaid Care* (2014). At <https://humanrights.gov.au/about/news/speeches/recognising-and-valuing-unpaid-care> (viewed 13 July 2020).

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