

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: Australian Human Rights Commission

Question No. SBE16/036

Senator Pratt asked the following question at the hearing on 18 October 2016:

Senator PRATT: I have a quick question for the Sex Discrimination Commissioner. Australia's response to CEDAW was due, I think, in 2014. I was wondering whether you had made inquiries with government as to when that response would be expected.

Ms Jenkins: I have not made any inquiries as yet.

Senator PRATT: Could you briefly comment on our progress in relation to CEDAW?

Ms Jenkins: No, I could not make any comment at the moment.

Senator PRATT: Perhaps you could take that on notice. That would be useful.

Senator WONG: If I could just follow up on that, Ms Jenkins: I am sorry, what is the reason you cannot make any comment on our progress against CEDAW?

Ms Jenkins: Since I have started, I have done a whole range of activities within the country to look at the issues that exist within Australia, but I have not been required before next year to really examine Australia's position on that.

Senator WONG: You cannot give the committee, as the commissioner, some assessment of our progress towards some of the matters that CEDAW sets out. Is that correct?

Ms Jenkins: Not in this forum, but I am happy to take that on notice and come back to the committee.

Senator WONG: That would be useful. It is not just a point in time assessment, is it? Although that may be how it is reported, it is how we are tracking against the various equality objectives. I hope at some point we will get some sense of where you think we are going. Are we tracking the right way or the wrong way? Is that possible?

Ms Jenkins: Yes.

Senator WONG: How would you like me to phrase the question on notice?

CHAIR: It is a matter for you, Senator.

Senator WONG: I am trying to be helpful.

Ms Jenkins: So the question was: how are we tracking against CEDAW?

Senator WONG: That is correct, thank you.

The answer to the honourable senator's question is as follows:

Australia's Combined 6th and 7th Report under the Convention on the Elimination of All Forms of Discrimination against Women was submitted in March 2009 and the CEDAW Committee issued its Concluding Observations on Australia in 2010.ⁱ

In 2012, the Australian Government submitted interim reports focused on the two areas of violence against women and Aboriginal and Torres Strait Islander women's rights. The CEDAW Committee issued a follow-up letter to the Australian Government on the interim report.ⁱⁱ

The Australian Government's 8th Report under CEDAW is currently in the process of being lodged with the UN.

The Commission monitors progress against CEDAW and submits reports to the CEDAW Committee for its periodic reviews of Australia.ⁱⁱⁱ

With regards to Australia’s progress against CEDAW, the Commission notes some advances in eliminating discrimination against women, achieving substantive equality, and promoting and protecting women’s and girls’ human rights. Positive steps include an increase in the representation of women on public and private sector Boards, a reduction in the gender pay gap from 19 per cent to 16.2 per cent, and demonstrated ongoing commitment to addressing violence against women in the release of the Third Action Plan 2016-2019 of the National Plan to Reduce Violence against Women and their Children 2010-2022.

However, there are also prevailing areas of discrimination against women and areas where substantive equality has not been achieved in Australia.

Australia ranked 46th in the 2016 Global Gender Gap Report, highlighting pervasive gaps in gender equality, particularly in relation to economic participation and opportunity (ranked 42nd) and political empowerment (ranked 61st).^{iv}

Specific areas of gender inequality that the Commission has identified include violence against women and girls, women’s economic security, and women in decision-making and leadership, as tabled below.

The gender pay gap	The national gender pay gap is currently 16.2% and has hovered between 15% and 19% for the past two decades. ^v
Gaps in women’s workforce participation	<ul style="list-style-type: none"> • Australian women continue to be under-represented in the workforce, with 78% of Australian men aged 20-74 years participating in or looking for work in 2013-14, compared with 65% of women.^{vi} • This gap widens with the arrival of children, with 57.5% of mothers whose youngest child is aged 0-5 years participating in the labour force, compared with 94% of fathers.^{vii} • When employed, women are also more likely to work in part-time or casual roles than men. Within Australia’s Workplace Gender Equality Agency’s dataset, women comprise 20.3% of full-time employees.^{viii}
Paid parental leave	The Commission notes the retrogressive measures proposed in the Fairer Paid Parental Leave Bill 2016 including: removing the ability for individuals to receive employer-provided primary carer leave payments in addition to the PPL; and removal of the requirement for the PPL payment to be made through employers. ^{ix} The Commission has called for strengthening the <i>Paid Parental Leave</i> scheme ^x by: increasing it to up to 26 weeks at full replacement wages; including a superannuation component, and extending the father/partner pay scheme. ^{xi}
Disproportionate proportion of unpaid caring work undertaken by women	Women undertake a greater proportion of the unpaid caring work of children and family/household members who are older or have a disability. In 2009, around one in three men (35%), and two in five women (41%) aged 15-64 years, or an estimated 2.5 million men and nearly 3 million women, had responsibilities for unpaid care. ^{xii} Women made up the majority of carers, representing 70% of primary carers and 56% of carers overall. ^{xiii}

Significant gaps in retirement incomes and saving between women and men	The average superannuation balances for women at retirement is 46.6% less than those for men. ^{xiv} This gap puts many women at risk of being homeless and living in poverty in their retirement. ^{xv}
Gaps in women's representation at leadership levels in the public, private and community sectors	<ul style="list-style-type: none"> • As of August 2016, women made up only 29% of members in the House of Representatives and 39% in the senate, comprising only 32.3% of all parliamentarians.^{xvi} • In the Commonwealth public sector, as at 31 December 2015, women made up 58.7% of the Australian Public Service, but only 41.8% of the Senior Executive Service.^{xvii} • In the Australian private sector, the percentage of women on ASX 200 boards was 23.4%, as of 31 June 2016.^{xviii} Ten per cent (10%) of ASX 200 companies do not have a woman on their board.^{xix}
High levels of domestic and family violence against women, as well as other forms of gender based violence including sexual assault, sexual harassment, and online violence	<ul style="list-style-type: none"> • One in three women has experienced physical violence, since the age of 15. One in five women has experienced sexual violence.^{xx} • Violence is a leading cause of ill-health and death among women aged between 15 and 44 years.^{xxi} • On average, at least one woman a week is killed by a partner or former partner in Australia.^{xxii} • In 2012, One in four (25%) women, and one in six men (16%) aged 15 years and older experienced sexual harassment in the workplace in the past five years.^{xxiii} • <i>Domestic and family violence is also a workplace issue.</i> In 2005, two out of three Australian women who reported violence by a current partner were in paid employment^{xxiv} and survey respondents have reported the impact of domestic violence on their work.^{xxv} Leave and other entitlements have been made available through agreements or award conditions for over one million Australians (as at 2013).^{xxvi} Existing federal, state and territory legislative frameworks provide limited protection for women experiencing domestic and family violence from further discrimination.
Pervasive negative gender stereotypes and norms that create barriers to gender equality	<ul style="list-style-type: none"> • One in two (49%) mothers reported experiencing discrimination at some point during pregnancy, parental leave or on return to work.^{xxvii} These experiences contribute to women's under-participation or withdrawal from the workforce and lower retirement savings.^{xxviii} • Over a quarter (27%) of father/partner survey respondents also reported experiencing discrimination upon requesting or after taking parental leave.^{xxix} This inhibits the redistribution of caring work between women and men.
Intersectional discrimination	<ul style="list-style-type: none"> • Women can experience greater intersectional inequality due to race, disability, age, sexual orientation, gender identity, intersex status, Indigenous status, living in rural areas, or socio-economic status. • Aboriginal and Torres Strait Islander women are 45 times more likely to be victims of domestic and family violence.^{xxx} • Women with disabilities are 40% more likely be the victims of domestic violence than women without

	<p>disabilities,^{xxxii} and more than 70% of women with disabilities have been victims of violent sexual encounters at some time in their lives.^{xxxii}</p> <ul style="list-style-type: none"> • Women and girls with disability face high levels of gendered disability violence, particularly in institutional and care settings and in relation to forced sterilisation. • Women from culturally and linguistically diverse backgrounds, and women who are of diverse sexual orientation, gender identity or intersex are also particularly susceptible to gender-based violence.
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ⁱ The Australian Government reports and the CEDAW Committee’s Concluding Observations can be viewed at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=347&Lang=en

ⁱⁱ The Australian Government’s Interim Report and the CEDAW Committee’s response can be viewed at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=347&Lang=en

ⁱⁱⁱ Australian Human Rights Commission, *Independent Interim Report to CEDAW* (2012). At <https://www.humanrights.gov.au/independent-interim-report-cedaw> (viewed 9 November 2016); Australian Human Rights Commission, *Independent Report to the Committee on the Elimination of Discrimination against Women* (2010). At <https://www.humanrights.gov.au/australia-s-implementation-convention-elimination-all-forms-discrimination-against-women-cedaw-2010> (viewed 9 November 2016).

^{iv} World Economic Forum, *Global Gender Gap Report 2016* (2016). At <http://reports.weforum.org/global-gender-gap-report-2016/economies/#economy=AUS> (viewed 9 November 2016).

^v Workplace Gender Equality Agency, Gender pay gap statistics (August 2016). At: https://www.wgea.gov.au/sites/default/files/Gender_Pay_Gap_Factsheet_final.pdf (viewed 7 November 2016).

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^{vii} Australian Bureau of Statistics, *Gender Indicators, Australia, August 2014* (2014). At [http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by_percent20Subject/4125.0~August_percent202014~Media_percent20Release~Women's_percent20participation_percent20in_percent20paid_percent20work_percent20lower_percent20than_percent20men's_percent20\(Media_percent20Release\)~10008](http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by_percent20Subject/4125.0~August_percent202014~Media_percent20Release~Women's_percent20participation_percent20in_percent20paid_percent20work_percent20lower_percent20than_percent20men's_percent20(Media_percent20Release)~10008) (viewed 22 February 2016).

^{viii} Workplace Gender Equality Agency, *Australia’s Gender Equality Scorecard: Key Results from the Workplace Gender Equality Agency’s 2014-15 Reporting Data* (2015), 4. At <https://www.wgea.gov.au/> (viewed 22 February 2016).

^{ix} Australian Human Rights Commission, Submission No 26 to the Senate Standing Committee on Community Affairs *Inquiry into the Fairer Paid Parental Leave Amendment Bill 2015*, 28 July 2015. At http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Fairer_Parental_Leave/Submissions (viewed 29 August 2016).

^x Under the *Paid Parental Leave Act 2010* (Cth), individuals are able to access 18 weeks of paid parental leave from the Government at the national minimum wage, in addition to any employer-provided leave entitlements. The Dad and Partner Pay provides up to two weeks government funded pay at the national minimum wage, to dads or partners caring for a newborn or recently adopted child, on a use it or lose it basis. The evaluation of the PPL scheme found improvements in mothers’ health and in rates of women returning to work after parental leave. University of Queensland, *Paid Parental Leave Evaluation: Final Report* (2014), 8. At https://www.dss.gov.au/sites/default/files/documents/03_2015/finalphase4_report_6_march_2015_0.pdf (viewed 29 August 2016).

^{xi} Australian Human Rights Commission, Submission No 26 to the Senate Standing Committee on Community Affairs *Inquiry into the Fairer Paid Parental Leave Amendment Bill 2015*, 28 July 2015. At http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Fairer_Parental_Leave/Submissions (viewed 29 August 2016).

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