



# Convention on the Rights of Persons with Disabilities

Distr.: General  
21 September 2017

Original: English  
English, French and Spanish only

---

## Committee on the Rights of Persons with Disabilities

### List of issues prior to the submission of the combined second and third periodic reports of Australia\*

#### A. Purpose and general obligations (arts. 1-4)

1. Please indicate the progress made with regard to incorporating all the rights under the Convention into domestic law and to the withdrawal of the State party's interpretative declarations concerning articles 12, 17 and 18.
2. Please clarify whether the State party, in partnership with persons with disabilities through their representative organizations, has established mechanisms to ensure the full and effective participation of persons with disabilities in the development, implementation and monitoring of actions to promote, protect and ensure their enjoyment of all the rights covered by the Convention, particularly in view of the imminent cessation of funding for the National Disability Advocacy Program.
3. Please provide information on how the State party is coordinating and facilitating action at the national, state and territory level under the National Disability Strategy (2010-2020) and other measures for implementing the Convention, including the level of resources allocated to the strategy, the mechanisms responsible for its implementation, the outcomes achieved and the process for evaluating and monitoring its impact.
4. Please provide information on:
  - (a) The assessment criteria for support under the National Disability Insurance Scheme (NDIS) and how equal access to and outcomes from NDIS are ensured for all eligible persons;
  - (b) Measures to ensure that persons with disabilities who are not eligible for individual support packages under NDIS will not be disadvantaged or unable to enjoy full and equal participation in the community;
  - (c) How the monitoring and evaluation of NDIS is incorporated into its national rollout and whether it provides opportunities for persons with disabilities and their representative organizations to inform ongoing NDIS improvement.

#### B. Specific rights (arts. 5-30)

##### Equality and non-discrimination (art. 5)

5. Please provide information on the steps taken, including through legal reform and the establishment of redress mechanisms, to address intersectional discrimination and to

---

\* Adopted by the Committee at its eighteen session (14-31 August 2017).



guarantee all persons with disabilities protection from discrimination on the grounds of disability, in particular intersecting race- and disability-based discrimination.

**Women with disabilities (art. 6)**

6. Please provide information on how public programmes and policies on the prevention of gender-based violence, especially the National Plan to Reduce Violence against Women and their Children (2010-2022), recognize and address all of the various forms of violence perpetrated against women and girls with disabilities, including in institutions and residential settings and with respect to their sexual and reproductive health rights. Please also provide information about the resources allocated and the steps taken to improve support and services to women with disabilities who experience or are at risk of violence and sexual abuse.

**Children with disabilities (art. 7)**

7. Please provide information on:

(a) Efforts made to promote and protect the rights of children with disabilities, by incorporating the Convention into legislation, policies, programmes, service standards, operational procedures and compliance frameworks that apply to children and young people in general;

(b) Policies and programmes that ensure the right of children with disabilities to express their views on all matters concerning them;

(c) Whether data relating to child protection and out-of-home care is systematically collected and disaggregated by age, gender, disability, location and ethnicity;

(d) Efforts made to protect children with disabilities from being placed in potentially abusive foster-care situations, through mandatory vetting of foster families;

(e) Measures in place to protect children with disabilities who are currently living in institutions as well as those at risk of being institutionalized.

**Awareness raising (art. 8)**

8. Please provide information on:

(a) Measures, including public awareness campaigns and strategies, taken to regularly raise awareness in society about the rights and dignity of persons with disabilities, their capabilities and their contribution to society;

(b) The extent to which those strategies are grounded in the human rights-based approach to disability, promote a positive image of persons with disabilities in line with the Convention and are implemented in accessible formats and languages;

(c) The extent to which persons with disabilities and their representative organizations are involved in the design, implementation, monitoring and evaluation of awareness-raising campaigns and strategies.

**Accessibility (art. 9)**

9. Please indicate the resources and mechanisms in place to ensure the implementation, monitoring of compliance and sanctions for non-compliance of the disability standards and requirements throughout the State party, particularly the National Standards for Disability Services (2013), the Disability Standards for Accessible Public Transport (2002) and the Disability (Access to Premises — Buildings) Standards (2010).

10. Please provide information on whether the State party has a comprehensive and coordinated legislative and policy framework to ensure accessibility for persons with disabilities, on an equal basis with others, to all facilities and services that are open or provided to the public, including through the use of sign language interpretation, signage in Braille and augmentative and alternative communication and other accessible means, modes and formats of communication, such as Easy Read.

11. Please provide information on efforts to ensure an adequate supply of accessible housing and on whether the 2020 targets for universal housing design are being met.

**Situations of risk and humanitarian emergencies (art. 11)**

12. Please provide information about the measures taken to ensure that the disaster risk reduction plan and strategies at the national, state and territorial levels explicitly provide for accessibility and inclusion of persons with disabilities in all situations of risk, in line with the Sendai Framework for Disaster Risk Reduction.

**Equal recognition before the law (art. 12)**

13. Please provide information on:

(a) The time frame for implementing a nationally consistent supported decision-making framework, as recommended in the Australian Law Reform Commission's 2014 report, "Equality, Capacity and Disability in Commonwealth Laws";

(b) The provision of training, in consultation with and with the cooperation of persons with disabilities and their representative organizations, at the national, state and territorial levels for all actors, including civil servants, judges, lawyers, police officers and social workers, on recognition of the legal capacity of persons with disabilities on an equal basis with others in all aspects of life and on the primacy of supported decision-making mechanisms in the exercise of legal capacity.

**Access to justice (art. 13)**

14. Please provide data on the number of persons with disabilities in the criminal justice system, disaggregated by age, gender, disability, location and ethnicity.

15. Please provide information on:

(a) The incorporation of standard and compulsory modules on working with persons with disabilities into training programmes for police officers, prison staff, lawyers, the judiciary and court personnel;

(b) The measures taken, in law and in practice, to increase access to justice for persons with disabilities, more specifically, ensuring the same substantive and procedural guarantees in the context of all legal proceedings as for others, including through the provision of legal representation, advice and support;

(c) The measures taken at the national, state and territorial levels to harmonize the regulation of the jury composition with the Convention, so as to ensure that persons with different types of impairments, particularly deaf persons, can serve as jurors and the efforts made to promote, support and empower persons with disabilities in relation to working in the justice system so as to enhance access to justice for persons with disabilities;

(d) The support and accommodation systems in place for persons with disabilities, particularly psychosocial and intellectual disabilities, to facilitate their effective participation in contesting the lawfulness of their detention as well as any criminal charges brought against them;

(e) The outcome of investigations examining the overrepresentation of persons with disabilities in the criminal justice system.

**Liberty and security of the person (art. 14)**

16. Please provide an update on the repeal of all legislation, and the withdrawal of policies and practices not in line with the Convention that authorize:

(a) Indefinite detention of persons with disabilities who are assessed as unfit for trial and who remain in detention without being convicted of a crime, with focus on Aboriginal and Torres Strait Islander persons with disabilities;

(b) Deprivation of liberty on the basis of disability, including psychosocial or intellectual disabilities, and involuntary internment linked to perceived or diagnosed disability;

(c) The administration of medical intervention to persons with disabilities without the free, prior and informed consent of the person concerned, committal of individuals to detention in mental-health facilities or imposition of compulsory treatment, either in institutions or in the community, by means of Community Treatment Orders.

17. Please provide information on the steps taken to implement the recommendations of the Senate Community Affairs References Committee's 2016 report, "Indefinite detention of people with cognitive and psychiatric impairment in Australia".

**Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)**

18. Please provide information about measures taken:

(a) To abolish all unregulated behaviour modification or restrictive practices towards persons with disabilities, particularly those with an intellectual disability or psychosocial disability as well as indigenous persons with disabilities, such as chemical, mechanical and physical restraints and seclusion, in various environments, including schools, mental health facilities and hospitals;

(b) To establish an independent national preventive mechanism to monitor places where persons with disabilities may be deprived of their liberty, such as mental health facilities, special schools, hospitals, disability justice centres and prisons, in order to ensure that persons with disabilities, including psychosocial disabilities, are not subjected to intrusive medical interventions.

**Freedom from exploitation, violence and abuse (art. 16)**

19. Please provide information on:

(a) Measures taken to implement the recommendations of the Senate Community Affairs References Committee's 2016 report, "Violence, abuse and neglect against people with disability in institutional and residential settings", in particular its recommendation to establish a Royal Commission into violence, abuse and neglect of people with disability (recommendation 1);

(b) Measures taken to ensure freedom from exploitation, violence and abuse, including through the establishment of accessible oversight, complaint and redress mechanisms, for all persons with disabilities, with particular attention to those with intellectual disabilities and women with disabilities, in all settings, not just for persons with disabilities covered by the National Disability Insurance Scheme Quality and Safeguards Framework;

(c) Measures taken to provide appropriate counselling for persons with disabilities, particularly those with intellectual and or psychosocial disability, who have been exposed to violence or abuse in institutional settings.

**Protecting the integrity of the person (art. 17)**

20. Please provide information on the measures taken to harmonize the legal frameworks at the national, state and territory levels that, in the absence of the free, prior and informed consent of the person concerned, prohibit the following:

(a) Sterilization of children and adults with disabilities;

(b) Administration of unnecessary medical interventions, with particular attention to an individual's sexual and reproductive health and to people born with variations of sex characteristics.

**Liberty of movement and nationality (art. 18)**

21. Please provide information on the measures taken to ensure the equal treatment of persons with disabilities in formalities and procedures relating to migration and asylum, including the issuance of an Australian visa. Please also provide information on the measures taken to amend the health requirement in the Migration Regulations (1994) and to ensure the application of the Disability Discrimination Act (1992) in all aspects of migration law, policy and practice.

**Living independently and being included in the community (art. 19)**

22. Please provide the following:

(a) Information on the national framework for the closure of residential institutions, the projected time frame for completion of the process and the resources allocated for appropriate and accessible housing and support services that would enable persons with disabilities to live independently and be included in their communities;

(b) Details on the measures taken to ensure that persons with disabilities have a free choice as to where and with whom they want to live and that they are eligible to receive the necessary support regardless of their place of residence;

(c) Updated data on the number of persons with disabilities who are living independently as a result of the various measures taken by the State party;

(d) Updated data on the number of persons with disabilities living in all forms of residential centres and institutional living centres, disaggregated by age, gender, disability, location and ethnicity.

**Freedom of expression and opinion, and access to information (art. 21)**

23. Please indicate the progress made in relation to:

(a) Legal recognition of Australian sign language as a national language;

(b) Increasing funding for the development, promotion and use of accessible modes, means and formats of information and communication, such as Braille, Easy Read, audio description and captioning, including for television content, websites, applications, touch-screen devices and other digital products and services, so as to enable persons with disabilities to access information according to their requirements and preferences;

(c) Provision of information about changes to laws, policies, systems and obligations in accessible formats, including Easy Read.

**Education (art. 24)**

24. Please provide updated data on the participation, completion rate, suspensions, use of restraint and seclusion of students with disabilities in both segregated and inclusive classroom settings, disaggregated by age, gender, disability, location and ethnicity.

25. Please detail the measures taken to:

(a) Implement the recommendations in the Senate Education and Employment References Committee's 2016 report, "Access to real learning: the impacts of policy, funding and culture on students with disability";

(b) Conduct research into the effectiveness of current education inclusion policies and the extent to which the Disability Standards for Education (2005) are being implemented in each state and territory;

(c) Increase funding to ensure the provision of reasonable accommodation for inclusive and quality education;

(d) Increase the accessibility of tertiary education facilities and courses for all persons with disability, particularly deaf persons and persons with intellectual disabilities.

26. Please explain how the State party's new education funding model supports progressive implementation of article 24 of the Convention, including in the light of the

Committee's general comment No. 4 (2016) on the right to inclusive education, which calls for the transfer of resources from segregated to inclusive education settings.

#### **Health (art. 25)**

27. Please provide information on the measures taken to ensure that:

(a) All persons with disabilities, and particularly those who are excluded from NDIS coverage, those residing in rural areas and those incarcerated, have access on an equal basis with others to affordable, accessible, quality and culturally sensitive health services, including assistive and adaptive technology in private and public settings, including in the areas of sexual and reproductive health, mental health and psychosocial support;

(b) The human rights-based approach to disability and respect for the dignity, autonomy and requirements of persons with disabilities are included in the training curricula of all medical and health professionals, including community health workers, and in the ethical standards for public and private health care, throughout the State party.

#### **Access to habilitation and rehabilitation (art. 26)**

28. Please provide information about measures taken to ensure that habilitation and rehabilitation services for persons with disabilities are based on a human rights-based approach, including by ensuring that services are:

(a) Designed and implemented to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life;

(b) Provided to persons with disabilities on the basis of their free, prior and informed consent.

#### **Right to work (art. 27)**

29. Please provide information on how the new Disability Employment Framework has taken into consideration the Committee's previous recommendations (see CRPD/C/AUS/CO/1, para. 50) to:

(a) Discontinue the use of the Business Services Wage Assessment Tool;

(b) Ensure that the Supported Wage System is modified to secure correct assessment of the wages of persons in supported employment;

(c) Increase employment participation by women with disabilities by addressing the specific underlying structural barriers to their workforce participation.

30. Please provide information on the steps taken to implement the recommendations in the Australian Human Rights Commission's 2016 report, "Willing to Work", to reduce employment discrimination against persons with disabilities.

#### **Adequate standard of living and social protection (art. 28)**

31. Please provide information on how specific measures for persons with disabilities are mainstreamed in poverty- and homelessness-reduction strategies, with particular attention to women, children, Aboriginal and Torres Strait Islander persons with disabilities, and persons with intellectual and psychosocial disabilities.

#### **Participation in political and public life (art. 29)**

32. Please describe all the measures taken to:

(a) Restore presumption of the capacity of persons with disabilities, in particular those with intellectual or psychosocial disabilities, to vote and exercise choice;

(b) Promote the meaningful participation of persons with disabilities in decision-making processes in public affairs, at the federal, state, territorial and municipal levels, including all aspects of voting and contending for an election, by ensuring that such

processes are accessible and inclusive, and that information is available in accessible formats.

**Statistics and data collection (art. 31)**

33. Please provide information on:

(a) Efforts to increase the systematic collection of, reporting on and coordination, between all entities at the federal, state and territory levels, for collecting disaggregated data relating to the full range of obligations under the Convention;

(b) The outcome of any assessment conducted particularly on the situation of girls and women with disabilities in the State party, for the purpose of formulating and implementing policies to give effect to their rights under the Convention.

**International cooperation (art. 32)**

34. Please explain the impact of the Development for All (2015-2020), the strategy for strengthening disability-inclusive development in all aspects of the State party's international development programmes and policies, taking into consideration the linkage between effective implementation of the Convention and implementation of the 2030 Agenda for Sustainable Development.

**National implementation and monitoring (art. 33)**

35. Please provide information about the measures taken to ensure the establishment and functioning of a monitoring framework, including one or more independent mechanisms to promote, protect and monitor the implementation of the Convention and the extent to which the Principles relating to the status of national institutions for the protection and promotion of human rights (the Paris Principles) have been taken into account, particularly regarding the independence, autonomy and human and financial resources of the mechanisms.

---