



Australia's draft Seventh Periodic Report under the ICCPR
Submission
19 June 2026

ABOUT AAWAA

The Affiliation of Australian Women's Advocacy Alliances (AAWAA) is a national peak women's advocacy body with member groups in all states and territories of Australia. We advocate for the protection, advancement, and human rights of women and girls, particularly where we are vulnerable on the basis of our sex. We undertake rigorous policy advocacy and have contributed to United Nations mechanisms, parliamentary inquiries, and government consultations at federal and state levels across a wide range of issues affecting women and girls. Our work is evidence-based and independent.

This submission responds to Australia's draft seventh periodic report under the International Covenant on Civil and Political Rights (ICCPR). It covers three areas: (1) an overarching concern about the Australian Government's growing disengagement from women's sex-based protections and rights over the ten years since Australia's sixth periodic report; (2) AAWAA's response to individual paragraphs of the draft report; and (3) AAWAA's formal recommendations. Our submission proceeds from a foundational concern: that the draft report presents a picture of domestic human rights compliance, and of engagement with international human rights mechanisms, that is materially incomplete in relation to women and girls as a sex class.

1. OVERARCHING CONCERN: THE AUSTRALIAN GOVERNMENT'S DISENGAGEMENT FROM WOMEN'S SEX-BASED PROTECTIONS AND RIGHTS

The ten years since Australia's sixth periodic report have not been a period of steady progress for women's sex-based protections and rights. Australia's most recent ABS Personal Safety Survey¹ found increased prevalence rates of sexual violence against women over the reporting period — including sexual violence within domestic relationships. Against that backdrop, this submission documents a consistent pattern of government disengagement from independent international scrutiny of women's rights, an unauthorised reinterpretation of Australia's CEDAW obligations, and a failure to resolve the legislative incoherence created by the 2013 amendments to the *Sex Discrimination Act 1984* (Cth) (SDA).

¹ [Personal Safety, Australia](#), ABS, March 2023.

The following two subsections address the most serious instances of that pattern.²

1.1 Non-engagement with the SRVAWG's call for inputs

The draft report presents Australia as a constructive and transparent partner in the international human rights system. The FOI record does not support this characterisation in relation to the mandate of the UN Special Rapporteur on Violence Against Women and Girls (SRVAWG), Ms Reem Alsalem.

AAWAA's FOI requests to DFAT and DEWR reveal a consistent pattern. An internal 'fireside chat' transcript (DEWR LEX 1781) records Australia's then Ambassador for Gender Equality stating that Ms Alsalem had "taken a fairly difficult position on transgender rights in a way that doesn't conform with our views" and that Australia was "directly engaging through various different mechanisms" to deal with those concerns. Large portions of that transcript were redacted under the international relations exemption. A DFAT document list (LEX 12146) shows final documents dated 19 February 2025 titled "Australia to not provide submission" in relation to the SRVAWG's questionnaire on sex-based violence against women and girls — strongly indicating a deliberate policy decision not to respond. By contrast, DFAT LEX 13100 reveals detailed briefings prepared for engagement with the Independent Expert on sexual orientation and gender identity, with no equivalent engagement disclosed in relation to Ms Alsalem's concerns.³

These facts contradict the draft report's implied representation of the Australian Government as engaging consistently and in good faith with independent UN mechanisms on violence against women and girls. On the FOI record, the SRVAWG's mandate appears to have been treated as a reputational risk to be managed rather than as an expert mechanism to be engaged with.

1.2 Unauthorised reinterpretation of CEDAW

The same FOI material exposes a serious accountability gap: the Australian Government has, in practice, redefined 'sex' within CEDAW to mean gender identity rather than biological sex — without parliamentary authorisation, without public consultation, and without any disclosed decision by a minister or official with authority to alter Australia's treaty obligations.⁴

² For context: in the ten years since the sixth report, prevalence rates of sexual violence against women in Australia have increased, both within domestic relationships and for all women generally. The Full Federal Court's decision in *Giggle for Girls Pty Ltd v Tickle* confirmed that the SDA contains two protected attributes — sex and gender identity — rooted in different treaties and in unresolved conflict, and that this conflict is a question for Parliament to resolve. DFAT abolished the 'Ambassador for Women and Girls' role and replaced it with an 'Ambassador for Gender Equality' — a signal of ideological shift in Australia's approach. DFAT LEX 13100 reveals detailed briefings prepared for engagement with the Independent Expert on sexual orientation and gender identity, with no equivalent engagement disclosed in relation to the SRVAWG; and DFAT LEX 12146 includes documents whose titles strongly indicate a deliberate decision not to respond to the SRVAWG's formal call for inputs. In early 2024, the SRVAWG was denied leave to intervene directly in *Tickle v Giggle for Girls* at first instance, being directed to contribute only as an advisor to the AHRC rather than as *amicus curiae*.

³ See [DFAT reinterprets CEDAW, campaigns against UN expert who "doesn't conform with our views"](#) and ["Australia not to provide a submission": Inside DFAT's management of the UN Special Rapporteur on violence against women and girls](#).

⁴ For context: from 1984 to 2013, the Commonwealth used the SDA to implement CEDAW. The [AHRC's 2013 Senate submission](#) stated expressly that the 2013 SDA amendments "do not amend the existing SDA objects pertaining to discrimination on the grounds of sex" — a position consistent

Subsequent litigation underscores the incoherence. In *Tickle v Giggle for Girls*, Bromwich J held that SDA gender identity provisions derive their support from the ICCPR, while sex-based prohibitions remain grounded in CEDAW. On appeal, the Full Federal Court in *Giggle for Girls Pty Ltd v Tickle* did not endorse a CEDAW-based reinterpretation of sex; it held that the tension between sex and gender identity protections is a matter for Parliament to resolve.

Despite this, the Australian Government has been advancing its reinterpretation internationally.⁵ The result is an echo chamber: the Government promotes its reinterpretation of CEDAW, and then cites international responses as endorsement.

AAWAA therefore submits that Australia's final report should acknowledge this contested reinterpretation of CEDAW and its implications for women's sex-based protections and rights, rather than presenting it as settled international consensus.

2. PARA 1: IMPLEMENTATION OF PAST HRC RECOMMENDATIONS AND EFFECTIVE REMEDIES

This section responds to LOIPR paragraph 1 and to paragraphs 1–10 of the government's draft report.

The LOIPR asks Australia to report on steps taken to implement the Committee's previous concluding observations and Views under the First Optional Protocol, including in *M.I. et al v Australia*, *Nabhari v Australia*, and *Billy and others v Australia*.

The draft report summarises the Committee's Views in each case and records that the Government "respectfully disagrees" in *M.I. and Nabhari*, while noting changes to Nauruan law and climate-related initiatives in response to Billy. It does not identify concrete measures to give effect to the Committee's Views in any of the three cases, nor explain how victims will in practice obtain an effective remedy under article 2(3). This gap should be noted.

On effective remedies more broadly, AAWAA draws attention to the AHRC's refusal of Lesbian Action Group's (LAG) application under s 44 SDA for an exemption to hold female-only events for lesbian and bisexual women. The AHRC acknowledged that lesbians face "significant structural and entrenched discrimination" but refused the application without serious engagement with ICCPR rights to freedom of expression, peaceful assembly and association, and without considering s 7D SDA 'special measures'. Neither the application

with the AGD's own 2015 Guidelines on the Recognition of Sex and Gender, which defined 'sex' by reference to biological characteristics, consistently with CEDAW. In 2022, DFAT abolished the 'Ambassador for Women and Girls' role and replaced it with an 'Ambassador for Gender Equality' — a signal of ideological shift. In early 2024, the SRVAWG was denied leave to intervene directly in *Tickle v Giggle for Girls* at first instance, being directed to contribute only as an advisor to the AHRC rather than as amicus curiae. Following the first-instance judgment in September 2024, the SRVAWG released a statement expressing grave concern: "The ruling demonstrates the concrete consequences that result when gender identity is allowed to supplant sex and override women's rights to female-only services and spaces." Shortly afterwards, the fireside chat transcript (DEWR FOI LEX 1781) records the Ambassador for Gender Equality acknowledging that Ms Alsalem's position does not conform with Australia's views, and that Australia was engaging through other mechanisms to address that. See footnote 4.

⁵ See footnote 3.

nor its implications for lesbian women's ability to organise as a sex class appear in the draft report.

The LAG ultimately succeeded in judicial review in *Lesbian Action Group Inc v Australian Human Rights Commission* (FCA 432), but only after years of costly litigation — illustrating that effective remedies are not reliably or promptly available to women seeking to organise as a sex class. The Full Federal Court's decision in *Giggle for Girls Pty Ltd v Tickle* further complicates this position by confirming that the SDA must accommodate gender identity protections, leaving female-only lesbian spaces legally precarious.

AAWAA therefore submits that Australia should ensure timely, accessible remedies for women whose sex-based organising is constrained by the current framework, including through clearer legislative guidance and robust application of ICCPR rights in exemption and special-measures decisions.

3. PARA 2: COMPATIBILITY OF FEDERAL AND STATE LEGISLATION WITH THE ICCPR

This section responds to LOIPR paragraph 2 and to paragraphs 11–19 of the government's draft report (ICCPR art. 2).

The LOIPR asks how Australia ensures that federal and state legislation complies with the Covenant, including through the Parliamentary Joint Committee on Human Rights (PJCHR).

The draft report implies that existing scrutiny mechanisms are adequate; however the evidence does not support this. The failure begins at federal level: the 2013 SDA amendments — which introduced gender identity as a protected attribute alongside sex without resolving the conflict between them — passed through the PJCHR process without any finding of incompatibility with CEDAW or the ICCPR, despite subsequently being held by the Full Federal Court to have left Australia's sex-based protections in an incoherent and unresolved state. That the *Human Rights (Parliamentary Scrutiny) Act 2011* and its PJCHR failed to identify this problem is itself a significant failure of the scrutiny framework.

The pattern has continued at state level. The following examples illustrate how reforms with direct consequences for women's sex-based protections and rights — and for the treatment of surrogacy as reproductive exploitation — have proceeded without adequate scrutiny:

- NSW — the *Equality Legislation Amendment (LGBTIQA+) Act 2023* took the form of an omnibus bill amending many Acts simultaneously. Consultation was confined to a Likert-scale survey; no prose submissions were accepted. Over 85 per cent of survey respondents opposed the bill; it proceeded regardless. An urgent letter from NSWAA outlining process failures went unanswered.
- WA — the *Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024* was introduced, debated, and passed within weeks under an 'emergency health' framing. A motion to refer the bill to committee was defeated by an overwhelming majority. Women's organisations were not consulted despite far-reaching implications for female-only spaces.
- WA — the Assisted Reproductive Technology and Surrogacy Bill 2025 emerged from a ministerial panel chaired by a fertility clinician and dominated by industry interests with a direct stake in expanding surrogacy. Abolitionist feminist organisations were

excluded. The bill bypassed the Law Reform Commission and full committee scrutiny, contravening CEDAW article 7 and the ICCPR's participation guarantees.

At federal level, the PJCHR is the only body with a specific Covenant mandate, yet the draft report offers no evidence that its scrutiny has prevented or corrected comparable problems. AAWAA notes that the Attorney-General has power under the *Human Rights (Parliamentary Scrutiny) Act 2011* to refer a matter to the PJCHR for inquiry, including with the power to call for submissions and hold public hearings. Such an inquiry into the SDA — particularly the unresolved conflict between sex-based protections and gender identity provisions — would allow Parliament to consider, with proper evidence and participation by women's organisations, how to resolve the conflict the Full Federal Court has confirmed it must address.

AAWAA therefore submits that the Attorney-General should make such a referral, and report to the Committee that this action is under consideration.

4. PARA 4: INDEPENDENCE AND MANDATE OF THE AUSTRALIAN HUMAN RIGHTS COMMISSION

This section responds to LOIPR paragraph 4 and to paragraphs 28–32 of the government's draft report (ICCPR art. 2).

The LOIPR asks what steps have been taken to strengthen the AHRC's independence and resourcing in line with the Paris Principles.

The draft report notes the 2022 funding increase, merit-based appointments, and GANHRI's 2023 decision to re-accredit the AHRC with A-status. AAWAA does not dispute these improvements, but they address structural independence, not functional independence in relation to women's sex-based protections and rights — and on that question the evidence is concerning.

AAWAA, together with other women's organisations, has briefed the AHRC President and Commissioners on uncertainty about when female-only spaces, services and sport are lawful and what remedies are available to women as a sex class.⁶ This engagement has not resulted in any visible change in the Commission's guidance or practice, nor in transparent application of ICCPR articles 19, 21 and 22 where sex-based and gender identity claims conflict.

The LAG exemption application illustrates the problem. Despite acknowledging "significant structural and entrenched discrimination" against lesbians, the Commission refused permission for female-only lesbian events without seriously engaging with ICCPR rights or considering s 7D special measures. AAWAA has further documented, through research on the AHRC's public interventions and litigation choices, patterns that raise questions about functional independence on sex and gender identity.⁷

⁶ See [On the record: Women's organisations brief the Australian Human Rights Commission on Australia's sex and gender framework](#), AAWAA, February 2026.

⁷ See [AAWAA Women's Advocate, AHRC blog posts](#).

AAWAA therefore submits that the AHRC should develop and publish explicit guidance on s 7D and s 44 SDA in relation to female-only organising, grounded in ICCPR rights, and report publicly on how it balances competing rights where sex-based protections and gender identity claims intersect.

5. PARA 5: NON-DISCRIMINATION LAW — THE SDA REQUIRES REFORM

This section responds to LOIPR paragraph 5 and to paragraphs 33–43 of the government's draft report (ICCPR arts. 2, 19, 20 and 26).

The LOIPR asks about measures taken to consolidate non-discrimination provisions into comprehensive federal legislation and to ensure effective protection against discrimination under the Covenant.

The draft report lists existing federal and state legislation and describes the framework as comprehensive. AAWAA submits that this characterisation is untenable. The Full Court's judgment traces the SDA's evolution, including the 2013 amendments introducing gender identity alongside sex, and confirms that the Act now protects both attributes without providing any clear guidance on how conflicts between them should be resolved.

At first instance in *Tickle v Giggle for Girls*, Bromwich J held that gender identity protections derive their support from the ICCPR, whereas sex-based protections are grounded in CEDAW. On appeal, the Full Federal Court found that Ms Tickle had been directly discriminated against on the basis of gender identity and increased damages to \$20,000.

Taken together, these decisions demonstrate that the SDA contains two protected attributes — sex and gender identity — rooted in different treaties, without a coherent legislative framework for addressing conflicts. The Full Court explicitly indicated that this is now a question for Parliament. Nonetheless, the draft report neither acknowledges the SDA's failure to protect women from sex-based discrimination since the 2013 amendments, nor the significant public concern and debate that has followed the Full Court's decision of 15 May 2026. Instead, it presents the existing framework as functional and sound. It is neither.

The concrete consequences for women include:

- Female-only spaces remain legally precarious. The primary Tickle decision treated the exclusion of a male person who identifies as a woman from a female-only app as indirect discrimination, illustrating the risk that attempts to maintain female-only platforms can attract complaints and costly litigation — even where the Full Court ultimately alters the outcome.
- Lesbian and bisexual women are effectively invisible in Australia's equality framework. When females with same-sex attraction seek to organise, access services, or participate in policy processes as a sex class, they are treated as a sub-category within 'LGBTIQ+ communities' rather than as women with distinct sex-based interests.
- The s 44 exemption process is unreliable as a pathway for female-only services. LAG's experience — refusal despite acknowledged structural discrimination, reliance on judicial review, and years of uncertainty — demonstrates that the current framework

does not provide timely, accessible remedies for women seeking to organise as a sex class.

Surrogacy intensifies these concerns. The current federal review of surrogacy is proceeding via an advisory committee on which a clear majority have professional, financial, or advocacy roles dependent on the continuation or expansion of surrogacy, while abolitionist feminist organisations have been excluded. AAWAA submits that this process fails CEDAW article 7 and undermines the integrity of any future Commonwealth surrogacy legislation, particularly where such legislation is likely to interact with the SDA's non-discrimination provisions in ways that normalise and promote reproductive exploitation.

AAWAA therefore submits that Australia should:

- clarify, through an open parliamentary process, the meaning of 'sex' in the SDA and confirm that sex-based protections for women rest on biological sex, distinct from gender identity, and
- ensure that any federal surrogacy legislation is developed through inclusive processes that permit abolitionist feminist participation and that recognise surrogacy as incompatible with women's sex-based protections and rights.

6. PARA 7: SEXUAL ORIENTATION, GENDER IDENTITY AND ACCESS TO HEALTHCARE

This section responds to LOIPR paragraph 7 and to paragraphs 49–56 of the government's draft report (ICCPR arts. 2, 19, 20 and 26).

The LOIPR asks Australia to describe measures to prevent discrimination based on sexual orientation and gender identity, including ensuring access to 'gender-affirming' healthcare without unnecessary legal barriers.

The draft report emphasises the existing anti-discrimination framework and the NHMRC process to develop clinical guidelines for under-18s with gender dysphoria, with interim advice on puberty suppression due for consultation in 2026. AAWAA makes three observations.

First, the draft presents a one-directional picture focused on access. It does not engage with the international evidence that has led other jurisdictions to take a more precautionary approach. Following the Cass Review, NHS England has ceased routine prescription of puberty blockers outside research settings and the UK Government has moved to make a ban on private prescriptions indefinite. Finland and other Scandinavian systems now prioritise psychosocial support as first-line care. The CRC further requires a high threshold of caution around potentially irreversible interventions on children. The draft report does not acknowledge this evidence base or explain how the NHMRC process will evaluate it.

Secondly, the LOIPR para 7 question sits within the broader non-discrimination framework. Bromwich J's analysis in *Tickle* — locating gender identity protections in the ICCPR while sex-based protections rest on CEDAW — underscores that the ICCPR supports both sets of rights simultaneously. The draft treats them as compatible without acknowledging the

conflicts Australian courts are already navigating, including in relation to female-only services and surrogacy arrangements.

Thirdly, lesbian and bisexual women's interests are consistently subsumed within an 'LGBTIQ+' framing that does not reflect our realities as females with same-sex attraction. Female-only community spaces cannot reliably be maintained without risk of complaint and litigation, and the AHRC has declined to use s 7D special measures or s 44 exemptions to protect them. None of this appears in the draft report.

AAWAA therefore submits that Australia should:

- ensure clinical guidelines for minors are informed by the full international evidence base and subject to independent outcome evaluation, and
- recognise in law and policy that women's freedom of expression, assembly and association as a sex class must not be subordinated to gender identity claims.

7. PARA 8: VIOLENCE AGAINST WOMEN AND SURROGACY AS REPRODUCTIVE VIOLENCE

This section responds to LOIPR paragraph 8 and to paragraphs 57–72 of the government's draft report (ICCPR arts. 3, 6, 7 and 26).

The LOIPR asks about measures to prevent and combat all forms of violence against women, including femicides, and about implementation of the National Plan to End Violence against Women and Children 2022–2032, including disaggregated data.

The draft report emphasises substantial investment, including a \$4.7 billion National Cabinet package on gender-based violence with \$4.4 billion in new Commonwealth funding, building on over \$3.4 billion in Commonwealth investments since 2022. While AAWAA acknowledges this scale of funding, the draft sidesteps structural failures and a real deterioration in women's safety over the reporting period. Australia's most recent ABS Personal Safety Survey⁸ found an increased prevalence rate of sexual violence against women in Australia over the past ten years, with sexual violence by a cohabiting partner also increasing over that period. Three structural failures are not addressed in the draft report.

7.1 Non-engagement with the SRVAWG

As outlined in Part 1, DFAT's FOI-released document list (LEX 12146) includes emails whose titles strongly indicate that the Australian Government decided not to respond to the SRVAWG's formal call for inputs on sex-based violence against women and girls. This non-engagement is not disclosed in the draft report, which instead portrays Australia as an active partner in international efforts to end violence against women. On the FOI record, the SRVAWG's mandate appears to have been treated as a reputational risk to be managed rather than as an expert mechanism to be engaged with, raising concerns about Australia's willingness to accept independent scrutiny.

⁸ [Personal Safety, Australia](#), ABS, March 2023.

7.2 Gender-neutral framing that obscures male perpetration and key cohorts

The National Plan and related frameworks consistently use 'gender-based violence' framing and describe perpetrators as 'people who use violence'. This sex-neutral language displaces the naming of male perpetration and diffuses focus away from women as a class. The draft ICCPR report reproduces this language uncritically. Terminology is not neutral: when violence is framed in sex-neutral terms, data systems, services, and accountability frameworks follow.

AAWAA's submissions to the SRVAWG on older women and on mothers show that:

- older women are named across multiple frameworks but have no dedicated housing strategy, funding stream, or service pathway, despite being identified as the fastest-growing group at risk of homelessness; and
- mothers experience reproductive coercion, weaponisation of children, male adolescent violence, obstetric violence, and structural economic abuse, yet are effectively invisible in the National Plan.

The draft report notes commitments to disaggregate data by disability, First Nations status, and 'LGBTQIA communities', but does not indicate that older women and mothers will be separately identified as sex-based cohorts, or that sex-disaggregated data will consistently distinguish women as a class.

7.3 Surrogacy as violence against women and girls

During the reporting period, the SRVAWG released her report on surrogacy (A/80/158, 14 July 2025). The key recommendation is the worldwide abolition of all forms of surrogacy. The SRVAWG described surrogacy as a system of exploitation and commodification of women and children, involving economic, physical and reproductive violence — a practice incompatible with ICCPR arts. 3, 6, 7 and 26.

AAWAA submits that surrogacy must be recognised as a form of reproductive violence against economically vulnerable women. Surrogacy arrangements — including those described as 'altruistic' — involve contractual control over women's bodies and legally enforced separation of mothers and children. Women recruited into surrogacy are disproportionately economically insecure; payments and 'benefits' do not reflect the risks they bear. Yet Australia's draft ICCPR report is silent on surrogacy in its discussion of violence against women and children, and the federal surrogacy review is structured to privilege industry voices over abolitionist feminist organisations.

AAWAA therefore submits that Australia, in its final report, should:

- acknowledge surrogacy as a form of violence against women and girls incompatible with articles 3, 6 and 7 of the ICCPR, and
- move towards the abolition of surrogacy, including by withdrawing support for international surrogacy markets and ensuring that domestic law does not facilitate reproductive exploitation.

8. PARA 9: COUNTER-TERRORISM, HATE-GROUPS LAWS AND FREEDOM OF POLITICAL COMMUNICATION

This section responds to LOIPR paragraph 9 and to paragraphs 73–90 of the government's draft report (ICCPR arts. 2, 9, 12, 14, 17 and 22).

The LOIPR asks how counter-terrorism laws and expanded surveillance powers comply with legality, necessity, proportionality, non-discrimination, due process and independent oversight.

AAWAA raised concerns in a submission to the Parliamentary Joint Committee on Intelligence and Security on the exposure draft of the Combatting Antisemitism, Hate and Extremism Bill 2026. That Bill has now been enacted as the *Combatting Antisemitism, Hate and Extremism (Criminal and Migration Laws) Act 2026*, inserting a prohibited hate groups regime in Divisions 114A and 114B of the Criminal Code.⁹ Our core concerns remain.

The regime allows the Minister to declare an organisation a prohibited hate group if it has engaged in, assisted in, or "advocated" conduct constituting a hate crime. 'Advocates' is defined broadly to include counselling, promoting, encouraging, urging, providing instruction on, or "praising" such conduct where there is an "unacceptable risk" that the praise might lead someone to act. Once a listing regulation is made, criminal liability can attach immediately — including up to 15 years' imprisonment for directing, recruiting, training, or providing support to a listed group, and up to 7 years for membership.

AAWAA is concerned that:

- The breadth of 'advocacy' risks capturing lawful political advocacy on contested issues, including sex-based protections and rights, surrogacy, and gender-identity laws.
- Aspects of the regime limit ordinary procedural fairness at the listing stage, with organisations learning of their status only after listing, even though listing decisions can later be challenged in court.
- The 72-hour consultation window on the exposure draft made serious consideration of less restrictive alternatives impossible and fell short of Australia's obligations, including under CEDAW article 7, to ensure women's meaningful participation in law-making.

Women's organisations already experience professional consequences, de-platforming and vilification for advocating sex-based protections and rights. A framework that criminalises certain forms of association and funding on the basis of an elastic concept of 'advocacy' heightens the risk that women's political organising will be chilled or penalised. This is not only a domestic concern: the ICCPR's guarantees of freedom of expression and association under articles 19 and 22 are engaged where law has a chilling effect on legitimate civil society advocacy, and a State that enacts such a framework invites scrutiny of its compliance with those guarantees before this Committee.

⁹ [Constitutionally flawed: Why Australia's proposed hate groups listing framework threatens democracy — and in particular, women](#), AAWAA, January 2026.

AAWAA therefore submits that Australia should:

- narrow the advocacy definition to target only direct incitement of violence or criminal conduct,
- guarantee procedural fairness and effective review in listing decisions, and
- ensure that counter-terrorism and hate-crime laws do not suppress legitimate political communication on sex-based protections and rights and surrogacy abolition.

9. PARA 16: WOMEN IN DETENTION, MIXED-SEX PRISON PLACEMENT AND THE STATE'S DUTY TO PROTECT

This section responds to LOIPR paragraph 16 and to paragraphs 122–135 of the government's draft report (ICCPR arts. 7, 9 and 10).

The LOIPR asks what steps Australia has taken to improve detention and prison conditions, reduce overcrowding and solitary confinement, and ensure treatment of persons deprived of liberty consistent with the Covenant and the Mandela Rules.

The draft report addresses conditions in general terms but does not engage with a specific issue for women's rights: the placement of male prisoners in women's prisons and the State's duty to assess and mitigate the risk of male violence against women in custody.

Women in prison are a distinct and highly vulnerable cohort. Most have histories of male violence, sexual abuse, coercive control and trauma before entering custody. Once the State deprives them of liberty, its obligations to protect them from foreseeable harm and to ensure humane treatment are heightened. AAWAA submits that policies or practices permitting male prisoners to be placed in women's prisons, without rigorous sex-based risk assessment and without giving decisive weight to the rights, privacy, dignity and safety of women prisoners, are incompatible with the Covenant. Women should not be required to share locked, intimate environments with males in order to access conditions that are supposed to be humane and safe.

Gender-neutral risk frameworks do not answer this concern. Violence in custody is not sex-neutral, and policies that ignore the material reality of male violence operate to the particular detriment of women prisoners, especially Aboriginal and Torres Strait Islander women, women with disabilities, and women with extensive trauma histories. A formal policy of inclusion that disregards these realities does not constitute equality under the Covenant; it represents a failure to provide women with the sex-specific protections necessary to secure their dignity and bodily integrity in detention.

AAWAA therefore submits that Australia should:

- maintain female-only prison accommodation, units and intimate facilities for women on the basis of sex,
- ensure that prisoner classification and placement processes give primary weight to the safety, privacy and dignity of women prisoners, including through sex-based risk assessment, and
- collect and publish transparent data on incidents, complaints and risk-management practices relating to violence, intimidation and sexual harm in women's detention settings, so that compliance with the Covenant can be properly assessed.

10. PARA 19: PRIVACY AND FEMALE-ONLY SPACES

This section responds to LOIPR paragraph 19 and to paragraphs 151–160 of the government's draft report (ICCPR arts. 17, 19, 21 and 22).

The LOIPR asks about measures to protect individuals from arbitrary or unlawful interference with privacy, online and offline, and to ensure that such measures respect legality, necessity, proportionality, access to remedies and judicial review.

AAWAA draws attention to a domestic privacy concern not addressed in the draft report: the National Construction Code 2025 (NCC 2025) preview introduces an optional all-gender sanitary facilities pathway that allows part of the required provision of female-only toilets in some non-residential buildings to be substituted with all-gender toilets, while leaving total fixture numbers unchanged. For example, where three toilets are required, one women's, one men's and one all-gender compartment may be provided; where four or more toilets are required, up to half may be all-gender.

AAWAA's analysis¹⁰ indicates that women tend to avoid male and mixed toilets and rely on female-only toilets for safety, privacy and dignity, while men use both male and all-gender facilities. Replacing some female-only cubicles with all-gender cubicles therefore increases pressure on the remaining female toilets and effectively reduces provision for women, even though fixture counts appear compliant. For older women, women with disabilities and women who have experienced male violence, the loss of reliably female-only toilets is particularly significant.

These changes sit against the backdrop of sex self-identification laws that already undermine the practical availability of female-only spaces. The NCC 2025 preview did not incorporate women's organisations' evidence on these impacts, and the draft ICCPR report is silent on the issue, despite its clear implications for privacy, expression, assembly and association — for example, in protest and political settings where safe toilets are a precondition for women's participation.

AAWAA therefore submits that Australia should:

- review NCC 2025 provisions to ensure any all-gender options are strictly additional to, not substitutes for, female-only toilets, and
- recognise that women's ability to access female-only spaces, including toilets and change rooms, is a matter of privacy and safety under the Covenant and must not be eroded by sex self-identification policies or building standards.

¹⁰ [NCC analysis by AAWAA](#).

FORMAL RECOMMENDATIONS

Across the issues addressed above, AAWAA respectfully invites the Committee to consider recommending that Australia:

On UN engagement

- Engage transparently and constructively with the SRVAWG, including by responding to future calls for inputs and addressing her findings on surrogacy as a system of violence and exploitation.

On surrogacy

- Move towards the abolition of surrogacy in all its forms and ensure that law and policy recognise surrogacy as incompatible with women's sex-based protections and rights.

On legal frameworks and remedies

- Clarify, through parliamentary process, the meaning of 'sex' in the SDA, confirming its basis in biological sex and ensuring that sex-based protections are not subordinated to gender identity claims.
- Establish reliable, timely remedies for women including lesbians seeking to organise as a sex class, including through robust use of s 7D and s 44 SDA in line with ICCPR articles 19, 21 and 22.

On democratic process and participation

- Strengthen federal human rights scrutiny mechanisms — including through an Attorney-General referral of the SDA to the PJCHR — to ensure that reforms affecting sex-based protections and rights, and surrogacy, are assessed against the ICCPR and CEDAW, with meaningful participation by women's organisations.
- Ensure that counter-terrorism and hate-crime laws do not chill women's advocacy on sex-based protections and rights, surrogacy abolition, or related issues.

On violence against women and data

- Explicitly recognise mothers and older women as distinct, sex-based cohorts in violence-against-women strategies, with dedicated funding, data collection and service pathways.
- Name male perpetrators in official communications and ensure that sex-disaggregated data is systematically collected and not distorted by sex self-identification policies.

On women in detention

- Ensure women's prisons remain female-only, with sex-based risk assessment and transparent data on violence, complaints and risk management, so that compliance with the ICCPR can be properly assessed.

On privacy and female-only spaces

- Safeguard female-only spaces, including toilets, change rooms and intimate care settings, as a matter of privacy, dignity and safety under the ICCPR.
- Review NCC 2025 and related standards to ensure that all-gender facilities are additions rather than replacements for female-only provision.

AAWAA thanks the Committee for the opportunity to contribute to Australia's seventh periodic review under the ICCPR and stands ready to provide further information.