

Developing the Aboriginal and Torres Strait Islander Action Plan under the National Plan to End Violence Against Women and Children 2022-2032

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The Department of Social Services (DSS)



First Peoples Disability Network (Australia) Limited • ABN 58 169 154 330
Suite 4558, Level 45, 680 George St, Sydney NSW 2000
Postal Address: PO Box 20048, World Square NSW 2002
Phone 02 9267 4195 • enquiries@fpdn.org.au • fpdn.org.au

About Us

The First Peoples Disability Network Australia (FPDN) is a national organisation of and for Australia's First Peoples with disability, their families, and communities. Consistent with our principle of community control, our organisation is governed by First Peoples with lived experience of disability. We are the custodians of the narratives of First Peoples with disability, their families, and communities, and we recognise this important responsibility.

First Peoples with disability and their families are amongst the most seriously disadvantaged and disempowered members of the Australian community. FPDN gives voice to their needs and concerns and shares their narratives of lived experience.

Our purpose is to promote recognition, respect, protection, and fulfilment of human rights, secure social justice, and empower First Peoples with disability to participate in Australian society on an equal basis with others. To do this, we proactively engage with communities around the country, seek to influence public policy and advocate for the interests of First Peoples with disability in Australia and internationally.

We follow the human rights framework established by the United Nations Convention on the Rights of Persons with Disabilities (CRPD), to which Australia is a signatory, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

We work within both the social and cultural models of disability. The social model sees 'disability' to be the result of barriers to our equal participation in the social and physical environment. These barriers can and must be dismantled. A First Peoples cultural model of disability is based on enhancing wellbeing by fostering social inclusion, through the active participation of people with disability in community and cultural activities. A First Peoples cultural model is the only model that seeks to improve the human condition through positive affirmation, as distinct to merely negating the adverse impact of difference.

Introduction

First Peoples Disability Network Australia (FPDN) is pleased to see Commonwealth, state and territory governments commit to developing and implementing *Safe and Supported: Aboriginal and Torres Strait Islander First Action Plan 2023-2026* under *Australia's National Plan to End Violence Against Women and Children 2022-2032* (National Plan).

For decades, FPDN has asserted First Nations women, children and gender diverse people with disabilities' right to be free from all forms of violence. This includes all forms of gender-based violence, such as family violence and sexual violence, alongside racial violence, ableist violence and institutional discrimination, no matter the geographic location or setting.¹

This right to safety is affirmed in many human rights frameworks Australia has endorsed or ratified, including:

- the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*,
- the *Convention on the Rights of Persons with Disabilities (CRPD)*,
- the *Convention on the Elimination of Race Discrimination*,
- the *Convention on the Rights of the Child (CRC)*, and significantly for First Nations peoples,
- the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*.²

To date, this right to safety has not been realised, with First Nations women, children and gender diverse people with disabilities continuing to suffer disproportionate levels of violence, harm, and trauma.

If we are to meet Australia's ambitious goal of ending gender-based violence within a generation, it is critical that the violence experienced by this cohort is addressed with clear and intentional focus.

In order to achieve this, dedicated actions must be embedded within the Action Plan being developed that:

1. Promote First Nations women, children and gender diverse people with disabilities' human rights.
2. Increase housing and economic security.
3. Reform legal and family violence service systems.
4. Invest in early intervention, prevention and healing initiatives; and
5. Broaden the data and evidence base.

¹ Australian Human Rights Commission. (2022). [Wiyi Yani U Thangani First Nations Women's Safety Policy Forum Delegate Statement](#).

² As above.

We thank the Department of Social Services (DSS) for the opportunity to participate in this consultation and would be happy to discuss the matter further with you.

A handwritten signature in black ink, appearing to read 'D. Griffis'.

Damian Griffis
CEO, First Peoples Disability Network

Drivers of Violence

First Nations women, children and gender diverse people with disabilities are a discrete group at the intersection of three marginalised populations. The intersection of race, gender and disability makes them one of the most disadvantaged groups in Australia, reflected in greater risk of experiencing poorer health and social and emotional wellbeing outcomes, lower life expectancy, insecure housing, insecure employment, intergenerational disengagement with education and critically, all forms of violence.³

The violence experienced by First Nations women, children and gender diverse people with disabilities is driven by compounding systemic forces including gender inequality, racism, ableism, ageism, classism, queerphobia and transphobia.⁴ Critically, it must be acknowledged that these oppressive forces do not come from First Nations cultures across Australia, but rather that the violence First Nations women, children and gender diverse people with disabilities experience originates at colonisation.

Settler colonialism, both historical and ongoing, must be considered as *the* key underlying driver of violence against First Nations women with disabilities. Settler colonial violence is not simply about prejudice or hatred towards First Nations people, but rather a 'logic of elimination' that relies on dispossession and displacement.⁵ Colonisation has enabled multiple forms of State or State-sanctioned violence that continue to inhere in legislation, policies, practices and attitudes of the State and its agents; all of which are reflected in land ownership, wealth distribution, health statistics, and arrest and incarceration rates.⁶

Placing gendered and ableist drivers of violence within the context of colonisation can help explain where violence against First Nations women, children and gender diverse people with disabilities is perpetrated, accepted, encouraged and enabled. As Our Watch's evidence-based framework *Change the story* (2017) identifies, gender inequality is the social context in which violence against women occurs, with drivers of this inequality including:

- The condoning of violence against women.
- Men's control of decision-making and limits to women's independence in public and private life.
- Rigid gender stereotyping and dominant forms of masculinity; and
- Male peer relations and cultures of masculinity that emphasise aggression, dominance and control.⁷

³ Australian Human Rights Commission. (2020). [Wiyi Yani U Thangani \(Women's Voices\): Securing Our Rights, Securing Our Future Report](#), p. 316.

⁴ As above.

⁵ Women with Disabilities Australia (WWDA). (2021). [Response to Restrictive Practices Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#), p. 66.

⁶ The Institute for Collaborative Race Research (ICRR) and Sisters Inside. (2021). [The State as Abuser: Coercive Control in the Colony: Joint Submission from Sisters Inside and the Institute for Collaborative Race Research on Discussion Paper 1 of the Women's Safety and Justice Taskforce](#), p. 8.

⁷ Our Watch. (2021). [Change the story: A shared framework for the primary prevention of violence against women in Australia](#) (2nd ed.), p. 36.

Placing these gendered drivers of violence within the context of colonisation necessitates understanding the way in which European patriarchal notions of gender and gender roles have been imposed on First Nations communities, causing ongoing impacts for men, women and gender diverse people today.⁸

Ableist drivers of violence against First Nations women, children and gender diverse people with disabilities must similarly be recognised as inseparable from colonisation. Withing *Changing the landscape* (2022), Our Watch's key evidence base and national resource to prevent violence against women and girls with disabilities, the ableist drivers of violence identified include:

- Negative stereotypes about people with disabilities.
- Accepting or normalising violence, disrespect, and discrimination against people with disabilities.
- Controlling people with disabilities' decision-making and limited independence; and
- Social segregation and exclusion of people with disabilities.⁹

These examples of ableism within Australian society are inextricably related to notions of race, whiteness and Indigeneity and continue to be used to justify dispossession and violence against First Nations people.¹⁰ Seeking to control 'challenging behaviour' or 'behaviours of concern', for instance, remains premised on white normative ideals of behaviour, pathologising First Nations women, children and gender diverse peoples with disabilities' resistance to trauma related to racism and colonisation, and dismissing more inclusive cultural models of disability that have always existed in our communities.¹¹

Finally, systemic poverty must also be considered as a prevailing driver of violence against First Nations women, children and gender diverse peoples with disabilities. Deeply entrenched poverty, including poor living conditions, inadequate housing, unemployment, underemployment and limited access to economic resources and opportunities creates significant stressors in First Nations people's lives.¹² Centrelink payments like Jobseeker and the Disability Support Pension (DSP), which many First Nations women with disabilities are likely to rely on as their main source of income, remain sitting well below the income required to stay out of poverty, no matter how it is categorised.¹³

When considered alongside Centrelink requirements that mandate recipients of the DSP are means tested based on both their own income and that of their partner, as well as the many income control programs consecutive governments have used to

⁸ Our Watch. (2018). [Changing the picture, Background paper: Understanding violence against Aboriginal and Torres Strait Islander women](#), p. 46.

⁹ Our Watch & Women with Disabilities Victoria. (2022). [Changing The Landscape: A national resource to prevent violence against women and girls with disabilities](#), p. 36.

¹⁰ Women with Disabilities Australia (WWDA). (2021). [Response to Restrictive Practices Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#), p. 67.

¹¹ Women with Disabilities Australia (WWDA). (2021). [Response to Restrictive Practices Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#), p. 60.

¹² Our Watch. (2018). [Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children](#), p. 34.

¹³ Australian Institute of Health and Welfare (AIHW). 2017. [Australia's welfare 2017](#). Australia's welfare series no. 13. AUS 214.

target First Nations communities, poverty and Australia's welfare system can be seen as a clear driver of violence, often forcing First Nations women with disabilities to stay in abusive and unsafe relationships.¹⁴ In this way, and many of the other ways explored above, Australian governments are *directly* implicated in creating the social, economic and political conditions that enable high rates of violence against First Nations women, children and gender diverse peoples with disabilities.

Rates of Violence

Both First Nations women and women with disabilities experience disproportionate rates of gender-based violence. First Nations women are 32 times more likely to be hospitalised and 11 times more likely to die from assault than non-Indigenous women in Australia,¹⁵ whilst violence against women with disabilities tends to occur more frequently, over a longer period of time, across a wider range of settings, and is perpetrated by a greater range of people than violence against women without disabilities.¹⁶

For First Nations women, children and gender diverse people with disabilities who sit at the intersection of these two communities, rates of violence are alarmingly prevalent, with consensus among Australian and international researchers that this cohort experiences violence and abuse at a much higher rate than the rest of the population.¹⁷

From the limited data that exists speaking to the specific rates of gender-based violence experienced by First Nations women and gender diverse people with disabilities, it has been estimated that up to 1 in 4 Aboriginal and Torres Strait Islander women living with disability experience physical or threatened violence, compared with 15% of Aboriginal and Torres Strait Islander women without disability.¹⁸ In the Australian Institute of Health and Welfare's recent *Family, domestic and sexual violence in Australia: continuing the national story* (2019) report, it was found that more than half of Aboriginal and Torres Strait Islander peoples who experience family violence have a disability.¹⁹

Data examining the experiences of First Nations children with disabilities as victim-survivors in their own right reveals equally distressing rates of violence, with Australia's National Research Organisation for Women's Safety (ANROWS)'s recent research into domestic and family violence (DFV) experiences of children and young people with disability finding that 36% of all First Nations children with disabilities have been

¹⁴ Women with Disabilities Australia (WWDA). (2021). [Inquiry into the purpose, intent and adequacy of the Disability Support Pension](#), p. 9.

¹⁵ Australian Human Rights Commission. (2022). [Wiyi Yani U Thangani First Nations Women's Safety Policy Forum Delegate Statement](#).

¹⁶ Our Watch & Women with Disabilities Victoria. (2022). [Changing The Landscape: A national resource to prevent violence against women and girls with disabilities](#), p. 26.

¹⁷ Cripps, K., Miller, L., & Saxton-Barney, J. (2010). 'Too Hard to Handle': Indigenous Victims of Violence with Disabilities. *Indigenous Law Bulletin*, 7(21), 3-6.

¹⁸ Australian Bureau of Statistics (ABS). (2017). [Social and economic wellbeing of Aboriginal and Torres Strait Islander people with disability](#).

¹⁹ Australian Institute of Health and Welfare (AIHW). (2019). [Family, domestic and sexual violence in Australia: Continuing the national story](#).

exposed to DFV.²⁰ Given that First Nations children make up 8% of the population cohort of the study, this is a significant overrepresentation and consistent with previous findings from ABS survey data.²¹

Whilst these findings help to provide a preliminary understanding of the extremely high rates of gender-based violence First Nations women, children and gender diverse people with disabilities experience, we know the available data does not capture the true extent or nature of this violence. Until current data collection processes are updated so as to provide disaggregated datasets and intersectional analysis, the cohort of First Nations women, children and gender diverse people with disabilities will be left behind in mainstream efforts to prevent gender-based violence.

Scope of Violence

First Nations women, children and gender diverse people with disabilities are subjected to multiple different forms of violence, compounded by systemic forces including gender inequality, racism, ableism, ageism, classism, queerphobia and transphobia. This violence is often complex in nature and commonly plays out in First Nations women with disabilities' lives in cyclical and intergenerational ways.²²

Family violence, which is often the focus of discussions around violence against women, includes a wide range of physical, emotional, sexual, social, spiritual, cultural and economic abuses that can occur within families, extended families, kinship networks and communities.²³ The family violence experienced by First Nations women and gender diverse people with disabilities is more severe than that experienced by non-Indigenous women with disabilities and First Nations women without disabilities, bringing with it many far-reaching impacts.

Family violence contributes significantly to the 'burden of disease' experienced by First Nations women with disabilities, alongside far higher rates of depression, anxiety, alcohol use, early pregnancy loss, suicide and self-harm, and homicide and violence.²⁴ Amongst First Nations children with disabilities, family violence brings with it impacts including injury, complex trauma, developmental and learning impacts, suicide and self-harm, increased risk of sexual assault, ongoing negative impacts on social and emotional wellbeing, and death.²⁵

Family violence, however, is far from the only form of violence First Nations women, children and gender diverse people with disabilities are subjected to, with experiences of violence on the interpersonal level often linked to and driving institutional forms of violence on the systemic level.

²⁰ Australian's National Research Organisation for Women's Safety Limited (ANROWS). (2022). [Connecting the dots: Understanding the domestic and family violence experiences of children and young people with disability within and across sectors: Final report](#), p. 36.

²¹ Australian Bureau of Statistics (ABS). (2019). [Disability, Ageing and Carers, Australia: Summary of Findings](#).

²² Our Watch. (2018). [Changing the picture, Background paper: Understanding violence against Aboriginal and Torres Strait Islander women](#), p. 31.

²³ As above, p. 19.

²⁴ As above, pp. 30-31.

²⁵ As above, p. 33.

For example, family violence against women is the leading reason for the disproportionately high numbers of First Nations children removed from their families,²⁶ with racist and ableist child protection policies continuing to target First Nations women with disabilities experiencing violence and leading to the overrepresentation of First Nations children with disabilities in the out-of-home care system.²⁷ Similarly, interpersonal violence perpetrated by men is frequently the underlying reason for First Nations women with disabilities' contact with police and the legal system, leading to extremely high rates of incarceration and deaths in custody.²⁸

Within both the child protection and legal systems, First Nations women, children and gender diverse people with disabilities are exposed to institutional violence, with these systems often choosing to punish rather than protect Aboriginal women and girls.²⁹ Facing sexual, physical, and verbal violence in prison and youth detention settings, for instance, perpetuates the cycle of violence and frequently leads to the re-traumatisation of First Nations women, children and gender diverse people with disabilities; many of whom have already experienced multiple forms of trauma, including family violence, rape, sexual assault, gender-based and/or racialised violence.³⁰ FPDN notes this violence is particularly acute for Sistergirls detained in men's prisons.

Similarly, First Nations women, children and gender diverse people with disabilities are disproportionately harmed by disability-specific forms of violence, such as denial or overdosing of medication, food, and water, confinement and restraint, alteration or control of assistive equipment, or threats to withdraw care.³¹

Research suggests that First Nations people are more subject to restrictive practices including chemical, environmental, mechanical and physical restraints, alongside seclusion and segregation in closed places such as prisons, forensic mental health units, disability group homes and residential aged care settings.³² The use of restrictive practices on First Nations women, children and gender diverse people with disabilities must be understood in the broader context of their higher representation in systems of incarceration and control, such as the child protection and legal systems.³³

²⁶ Our Watch. (2018). [Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children](#), p. 6.

²⁷ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2021). [Overview of responses to the Experience of First Nations people with disability in Australia Issues paper](#), p. 2.

²⁸ Our Watch. (2018). [Changing the picture, Background paper: Understanding violence against Aboriginal and Torres Strait Islander women](#), p. 71.

²⁹ The Institute for Collaborative Race Research (ICRR) and Sisters Inside. (2021). [The State as Abuser: Coercive Control in the Colony: Joint Submission from Sisters Inside and the Institute for Collaborative Race Research on Discussion Paper 1 of the Women's Safety and Justice Taskforce](#), p. 11.

³⁰ First Peoples Disability Justice Consortium, An initiative of First Peoples Disability Network (Australia), its strategic partners and supports. (2016). [Aboriginal and Torres Strait Islander Perspectives on the Recurrent and Indefinite Detention of People with Cognitive and Psychiatric Impairment: A Submission to the Senate Inquiry on the Indefinite Detention of People with Cognitive and Psychiatric Impairment](#), p. 30.

³¹ Milberger, S., Israel, N., LeRoy, B., Martin, A., Potter, L., & Patchak-Schuster, P. (2003). Violence against women with physical disabilities. *Violence and Victims*, 15, 581–590.

³² Women with Disabilities Australia (WWDA). (2021). [Response to Restrictive Practices Issues Paper of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#), p. 66.

³³ As above.

In particular, gendered forms of restrictive practices, such as non-consensual and coercive sterilisation, menstrual suppression, contraception and abortion, forced child removal and denial of support for sexual activity and intimate relationships,³⁴ continue to target First Nations women and gender diverse people with disabilities. Forced sterilisation, for example, has been used as an ongoing weapon of genocide, upholding racially violent ideas around eugenics and contributing to dispossession, displacement and the 'elimination' of First Nations people.

Recommendations

In order to ensure First Nations women, children and gender diverse people with disabilities are safe and free from gender-based violence in all its forms, FPDN strongly recommends that the *Safe and Supported: Aboriginal and Torres Strait Islander First Action Plan 2023-2026* under the *National Plan to End Violence against Women and Children 2022-2032* embed the following actions, many of which have long been called for by communities, for implementation by all levels of Australian Government:

Promoting Human Rights

1. Commit to ensuring that First Nations women, children and gender diverse people with disabilities are afforded their fundamental human right to self-determination and to have meaningful involvement in decision making, development and evaluation of supports and systems that affect them, including in relation to prohibition and redress of restrictive practices and introduction of supported decision-making.
2. Enhance First Nations women, children and gender diverse people with disabilities' understanding of their human rights – especially the right to safety from violence – through targeted resources and training. This should be peer led, based on successful models such as the QLD-based WWILD Sexual Violence Program.
3. Abolish the use of all restrictive practices, including solitary confinement, within all closed settings and sites of detention in Australia, in order to bring all states and territories into compliance with obligations under the CRPD and in line with contemporary international law.
4. Develop and implement a national, time bound strategy and framework for the closure of all segregated and closed settings for people with disability, including those operated by non-government and private sectors.

Housing and Economic Security

5. Urgently invest in culturally appropriate and fully accessible housing models that adhere to universal design principles and meet the needs of First Nations women with disabilities experiencing domestic and family violence and

³⁴ As above, p. 36.

housing related harms, in particular rapid rehousing schemes. Women and children must be able to move from transitional housing into safe and secure tenancies rapidly.

6. Immediately lift all working age income support payments above the Henderson poverty line while more work is done to develop a new measure of poverty. Payments for people with disability should be set at least 25% above the poverty line of people without disability, to reflect our higher living costs.
7. Reform the DSP by removing the provision that excludes applicants from being eligible based on the income of their partner, alongside implementing measures to account for compounding factors which impact on the financial vulnerability of First Nations women and gender diverse people with disabilities, including race, gender, location, first language, LGBTIQ+, or parental status.

Legal System Reform

8. Invest in diversion programs for First Nations women, children and gender diverse people with disabilities. It is important that diversion programs are community-led, trauma-informed, trigger appropriate disability and social supports (including domestic and family violence supports), are non-punitive and non-coercive, address the deep entrenchment of institutional racism, ableism and sexism with the legal system, and are consistent across jurisdictions.
9. Increase funding for legal and advocacy supports for First Nations women, children and gender diverse people with disabilities. This must include introducing a legal advocacy specialisation under the *National Disability Advocacy Framework* (NDAF) focused exclusively on the cohort of First Nations people with disabilities in Australian prisons. FPDN proposes a collocated model of legal advocacy that places 7 legal advocates collocated within Aboriginal Legal Services in each state and territory. Whilst it is anticipated that these specialised legal advocates for incarcerated First peoples with disability, especially incarcerated First Nations women with disabilities will be overwhelmed in terms of caseload, embedding legal advocacy within the NDAF will at least begin to address this urgent and often overlooked area of need.

Service System Reform

10. Increase coverage and capacity of Aboriginal and Torres Strait Islander women, children and family specialist services and community-controlled holistic approaches and programs across the country. This includes therapeutic and trauma-informed counselling, men's behavioural change programs, healing programs and centres, night patrols and youth centres and support activities.
11. Fund cross-sector initiatives to strengthen the disability workforce, as well as the broader Aboriginal community-controlled and family violence service

system, in order to meet the specific needs of First Nations women, children and gender diverse people with disabilities and ensure better service delivery in practice.

12. Conduct a national accessibility audit of Australia's family violence service system, examining the accessibility of services' physical environments, assessing whether services' laws, policies, practices and procedures are inclusive, and evaluating what strategies are in place to meet the different communication requirements of people with disabilities. From this audit minimum accessibility standards for the family violence service system should be established, with a regulatory framework introduced to monitor adherence.
13. Improve access to all services, alongside education and employment opportunities for First Nations women, children and gender diverse people with disabilities, particularly those located in rural and remote Australia. Improving access to services must include investment in digital infrastructure, services focused on on-country care, ensuring the accessibility of the built environment (including retrofitting existing infrastructure) and providing accommodations for a variety of communication needs such as the creation of resources in First Nations languages and Easy English.
14. Improve reporting mechanisms for First Nations women, children and gender diverse people with disabilities experiencing violence, ensuring they are culturally responsive and accessible. This requires consideration of ways to accommodate reporting in languages other than English (particularly written English), ways to report remotely, ways to report anonymously, and importantly, ways to report violence that do not trigger unwanted attention or intrusion from the legal system, child protection system or other human services.

Early Intervention, Prevention and Healing Initiatives

15. Refocus and invest in early intervention and prevention supports as outlined in the *Wiyi Yani U Thangani Report* (2020). These supports must be grounded in First Nations women's self-determination and underpinned by healing and restorative approaches, aimed at supporting individuals and families, while also improving the conditions, and transforming the context, in which people live.
16. Fund community-based healing initiatives through the National Healing Foundation to address trauma, with a specific focus on addressing intergenerational trauma.
17. Invest in respite and vicarious trauma supports and counselling for women and other community members leading trauma recovery and healing work.
18. Elevate the voices of First Nations children and young people with disabilities as victim-survivors of violence in their own right. First Nations children and young people with disabilities with lived experience of family violence should

be ongoing partners in design and implementation of early intervention, prevention, and healing initiatives, with their voices sought, listened to and acted upon.

Data and Evidence Base

19. Implement a nationally consistent framework to enable the collection, analysis and public reporting of disaggregated data across all jurisdictions, on all forms of violence, abuse, neglect and exploitation experienced by First Nations women, children and gender diverse people with disabilities. This framework must be grounded in principles of Indigenous data sovereignty and include community-controlled data collection, monitoring and evaluation, with a greater focus on program and policy reviews to improve the design and implementation of services and ensure that there is accountability for outcomes.
20. Undertake a national data scoping project that determines the prevalence of First Nations children with disabilities' exposure to and experiences of DFV, out-of-home care and the child protection system, and the youth detention system. This evidence must not be used to surveil or justify intervention in the lives of First Nations children with disabilities, but rather inform Closing the Gap strategies, enable improved resourcing, planning and service provision, and ensure the diversity of children is recognised.

Contact:

Tennille Lamb, Policy Director
First Peoples Disability Network
tennillel@fpdn.org.au
0400766953