



First Peoples Disability Network Submission:

Call for written submissions on the draft guidelines on addressing multiple and intersectional forms of discrimination against women and girls with disabilities Office of the United Nations High Commissioner for Human Rights

Content note: The submission below includes references to racism, ableism, violence, police abuse and child removal.

Executive Summary

First Nations women and girls with disability in Australia experience intersecting discrimination at the confluence of colonisation, racism, ableism and gender inequality. The legal and policy architecture recognises disability- and sex-based discrimination separately, yet it seldom provides remedies when harms occur together. The result is systemic exclusion across education, justice, health, housing and employment, compounded by poor access to culturally safe supports and justice pathways. These failures are well-documented in Australia's Disability Royal Commission (DRC) and in *Wiyi Yani U Thangani (Women's Voices)*, alongside data demonstrating disproportionate violence and criminalisation and persistent service gaps for Indigenous communities (Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability [DRC], 2023; Australian Human Rights Commission [AHRC], 2020).

FPDN welcomes the OHCHR Draft Guidelines and urges the Committee to: explicitly recognise and prohibit intersectional discrimination in law and practice; embed cultural safety and community control; strengthen disaggregated data and Indigenous Data Sovereignty; and require accessible remedies with independent oversight and targets for closing gaps. These directions align with CRPD Article 6 and international guidance on intersectionality and are consistent with Australian peak-body positions.

Introduction and Background

Despite Australia's commitments under the CRPD and CEDAW, First Nations women and girls with disability continue to encounter layered harms that current legal and policy settings do not adequately prevent or remedy. Australia's anti-discrimination laws largely require a complainant to nominate a single attribute (e.g., sex or disability), a siloed approach that fails to capture lived realities at the intersection of gender, race, culture and disability. As WWDA and others have argued, this creates blind spots that leave Indigenous women with disability without effective remedies and with limited access to culturally safe support.

The DRC's Final Report (Vol. 9) documents pervasive violence, service inaccessibility and structural discrimination affecting First Nations people with disability, including criminalisation and the over-removal of children. *Wiyi Yani U Thangani* similarly records First Nations women's calls for self-determination, cultural safety and accountability across systems. Together, these authoritative sources evidence both the scale of harm and the solutions: community-led responses, trauma-informed practice, and legal frameworks that recognise and address intersectional discrimination. (DRC, 2023; AHRC, 2020).

Evidence and Statistics





- **High disability prevalence:** Nearly 38% of Aboriginal and Torres Strait Islander people have disability (AIHW analysis of ABS NATSIHS 2018–19), around double the non-Indigenous rate, yet needs are under-met by mainstream systems. **Significance:** Indicates scale and the imperative for culturally safe design and delivery. (DRC, 2023).
- **Violence at crisis levels:** Indigenous women are dramatically more likely to be hospitalised for family violence; risk further increases for those with disability. **Significance:** Prevention and response systems must be intersectional, accessible and culturally safe. (DRC, 2023).
- **Criminalisation & over-policing:** First Nations people with disability face vastly higher justice system contact. **Significance:** Requires disability- and culture-informed policing, diversion and therapeutic responses. (DRC, 2023).
- **Service access gap:** Indigenous participation in the NDIS remains far below need. **Significance:** Foundational supports and ACCO-led models are crucial. (DRC, 2023).
- **Data gaps:** Intersectional data and monitoring remain limited. **Significance:** Disaggregation by Indigeneity, gender, age, disability type and location is required under Indigenous Data Sovereignty principles.

Q1. What key legal frameworks, obligations and gaps should be addressed?

States must ensure that anti-discrimination frameworks explicitly recognise intersectional discrimination and provide remedies when multiple grounds interact (e.g., disability + sex + race). Australia’s current siloed approach forces a single-ground complaint and masks cumulative harm. The Draft Guidelines should: (a) define intersectional discrimination; (b) require adjudicators to consider multiple grounds; (c) introduce a positive duty to prevent discrimination; and (d) ensure accessible, culturally safe complaint pathways. These directions give effect to CRPD Article 6, Article 5(2) on equality, and align with peak-body calls. (DRC, 2023; WWDA, 2020; CRPD GC No. 3).

“I was treated as a naughty child... I was made to feel ashamed of who I was because I couldn’t learn like the other kids.”

— Witness WZ, First Nations woman (DRC Final Report, 2023, Vol. 9, p. 83).

Policy relevance: schooling and complaints mechanisms must recognise intertwined racism, ableism and gender bias.

Q2. How do multiple and intersectional forms of discrimination manifest, and which groups face the greatest risk?

Harms manifest across systems, education (ableist streaming, racism, low expectations), justice (over-policing, disbelief of survivors), health (coerced sterilisation, diagnostic overshadowing), housing (inaccessible, unsafe), and child protection (removals premised on disability stereotypes). First Nations girls and women with disability who are remote-based, LGBTQIA+, young, or with intellectual/cognitive disabilities face heightened risk. Priorities include culturally safe universal services, ACCO leadership, and integrated disability–family violence responses. (DRC, 2023; AHRC, 2020).





“I was told that I was a bad mother. I was [told] I couldn’t look after my child because of my disability.”
— Witness ZY, First Nations woman with intellectual disability (DRC Final Report, 2023, Vol. 9, p. 129).
Policy relevance: end discriminatory removals; deliver intensive, accessible parenting support.

Q3. What remedies and complaint mechanisms exist and how accessible are they?

Even where statutory rights exist, remedies are hard to reach for First Nations women and girls with disability: legal assistance is thin in remote areas; processes require naming a single attribute; and complaint bodies are rarely culturally safe or trauma-informed. The Guidelines should require: (1) intersectional analysis in all complaints; (2) independent, culturally safe advocacy; (3) alternative dispute resolution options underpinned by Indigenous law, custom and community leadership; and (4) systemic remedies (e.g., enforceable undertakings, positive duties) with monitoring. (DRC, 2023; AHRC, 2020).

“The police officer said to me, ‘You’re just another black ...’ [racist slur] ... [He] just stood over me.”
— Witness UO, First Nations woman with disability (DRC Final Report, 2023, Vol. 9, p. 200).
Policy relevance: complaint avenues must be safe, independent and capable of recognising compounding race–gender–disability harms.

Q4. In which areas of life is discrimination most pronounced?

- **Safety & justice:** Family and sexual violence rates are extreme; survivors are disbelieved; police responses can be discriminatory.
- **Education:** early exclusion, segregation, and low expectations produce lifelong effects.
- **Health:** inaccessible services and coerced reproductive interventions have harmed Indigenous women with disability.
- **Child protection:** disability stereotypes drive removals instead of support.
- **Employment & income:** discrimination and lack of accommodations lock in poverty. The Guidelines should mandate thematic action in these domains with targets and transparent reporting.

Q5. What principles and actions should the Guidelines include for Indigenous women and girls with disability?

- **Self-determination & community control:** Prioritise ACCO-led design and delivery across all domains.
- **Cultural safety & trauma-informed practice** as minimum standards.
- **Intersectional data systems** with Indigenous Data Sovereignty and routine public reporting.
- **Positive duties & proactive compliance** (training, audits and enforcement).
- **Participation:** “nothing about us without us” in policymaking and oversight.

“Disability is a white concept. It is not our concept... In our way, there are no ‘disabled people’- we just look after our people the proper way.”
— Woman, Cherbourg (Wiyi Yani U Thangani, 2020, p. 317).
Policy relevance: the Guidelines must embed cultural frameworks, not retrofit Western models.





Q6. What key recommendations or changes should be prioritised in the Guidelines?

See “Recommendations” below.

Recommendations

1. **Prohibit intersectional discrimination in law and provide remedies.** Adopt statutory definitions and ensure tribunals consider multiple grounds; introduce a positive duty to prevent discrimination.
2. **Mandate cultural safety and trauma-informed practice.** Require accreditation, workforce training and regular audits; non-compliance triggers enforceable undertakings.
3. **Fund ACCO-led, place-based supports and justice responses.** Shift investment to community-controlled services across safety, health, education and disability supports.
4. **Guarantee accessible, intersectional complaint pathways.** Provide independent advocacy, culturally safe ADR, and systemic remedies addressing race–gender–disability harms.
5. **Strengthen disaggregated data and Indigenous Data Sovereignty.** Mandate public reporting by Indigeneity, gender, disability type, age and location; resource First Nations leadership in data governance.
6. **End discriminatory child removals; invest in parenting support.** Replace risk-only approaches with intensive, disability-aware family supports; set targets to reduce removals.
7. **Ensure reproductive justice and bodily autonomy.** Prohibit non-consensual sterilisation; ensure accessible SRH care and supported decision-making.
8. **Inclusive education with high expectations.** Fund culturally safe inclusive schooling, First Nations disability assistants, and anti-racism/anti-ableism accountability.
9. **Justice transformation.** Establish disability- and culture-informed policing, diversion and therapeutic courts; independent oversight of detention conditions.
10. **Targets & transparent monitoring.** Align with Closing the Gap and ADS; publish annual progress on violence, education and employment outcomes for First Nations women and girls with disability.

Conclusion

The Draft Guidelines can close a long-standing protection gap by recognising and remedying intersectional harms. Evidence from the DRC and Wiyi Yani U Thangani shows what works: community control, cultural safety, accessible justice and data-driven accountability. FPDN urges the Committee to embed these principles and actions so that First Nations girls and women with disability live free from violence, access quality supports, and lead change on their own terms. FPDN stands ready to assist with implementation and further technical advice.

Appendix A: References

- Australian Human Rights Commission. (2020). *Wiyi Yani U Thangani (Women’s Voices): Securing our rights, securing our future* (Report). Canberra: AHRC.





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- Committee on the Rights of Persons with Disabilities. (2016). *General comment No. 3 on women and girls with disabilities*.
- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2023). *Final Report: Volume 9, First Nations people with disability*. <https://disability.royalcommission.gov.au/>
- Women With Disabilities Australia. (2020/2023). Selected position statements and submissions (e.g., right to freedom from violence; education).
- First Peoples Disability Network (FPDN), 2018. *Ten priorities to address disability inequity in Aboriginal and Torres Strait Islander Communities for the National Disability Strategy and National Disability Insurance Scheme*. <https://fpdn.org.au/ten-priorities-to-address-disability-inequity/>
- Australian Institute of Health and Welfare. (2024). First Nations people and primary health care: Independent variables (AIHW analysis of ABS 2018–19 NATSIHS).

Accessibility Statement

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Policy contact: policy@fpdn.org.au



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