# Submission to the Parliamentary Joint Committee on Human Rights Inquiry into Australia's Human Rights Framework (June 2023)

## About Our Watch

### A national leader in prevention

Our Watch is a national leader in the primary prevention of violence against women and their children in Australia. We are an independent, not for profit organisation established in 2013. All Australian governments are members of Our Watch.

Our vision is an Australia where women and their children live free from all forms of violence. We aim to drive nation-wide change in the culture, behaviours, attitudes and social structures that drive violence against women and their children.

Guided by our ground-breaking national framework, [*Change the story*](https://www.ourwatch.org.au/resource/change-the-story-a-shared-framework-for-the-primary-prevention-of-violence-against-women-in-australia)(2nd ed, 2021), we work at all levels of our society to address the deeply entrenched, underlying drivers of violence against women, especially those stemming from gender inequality. We work with governments, practitioners, and the community, at all levels of Australian society, to address these drivers of violence in all settings where people live, learn, work and socialise.

## About this submission

Our Watch welcomes the opportunity to contribute to the Australian Parliamentary Joint Committee on Human Rights’ inquiry into Australia’s Human Rights Framework. This submission responds to the second Term of Reference that the Parliamentary Joint Committee on Human Rights has been asked to consider, namely ‘whether the Framework should be re-established, as well as the components of the Framework, and any improvements that should be made’.

Our Watch would be pleased to provide further advice or assistance to the Committee in relation to the issues outlined in this submission. Please contact Director Government Relations, Policy and Evidence, Amanda Alford at [amanda.alford@ourwatch.org.au](mailto:amanda.alford@ourwatch.org.au).

## Summary of recommendations

Our Watch recommends that:

1. Any Human Rights Framework and Action Plan include a clear articulation of and commitment to primary prevention of violence against women to reaffirm Australia’s obligations as a State Party to CEDAW.
2. Any Human Rights Framework and Action Plan acknowledge and commit to education initiatives that support promotion of gender equality, the elimination of violence against women and the realisation of women rights as human rights.
3. Any Human Rights Framework and Action Plan include commitments to gender responsive policymaking, budgeting, and legislative review to enhance the focus on women’s rights in the development of government policies and practices.
4. The Australian Government embed an intersectional approach across all components of any Human Rights Framework and Action Plan.

## Preventing all forms of violence against women: A national responsibility

As a State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Australia has joined the majority of the world’s nations in recognising discrimination against women, including violence against women, as a serious and preventable human rights abuse.

Through General Recommendation 35 and its precursors, the CEDAW Committee has clarified that discrimination against women, as defined in Article 1 of the Convention, includes gender-based violence, that is “violence which is directed against a woman because she is a woman or that affects women disproportionately”, and that it constitutes a violation of their human rights. The Convention is supported by the 1993 United Nations Declaration on the Elimination of Violence against Women, the 1995 United Nations Beijing Declaration and Platform for Action, and the 1989 United Nations Convention on the Rights of the Child.

Violence against women is recognised as a serious and widespread problem in Australia, with enormous individual and community impacts and social costs. 1 in 3 Australian women has experienced physical violence since the age of 15 and 1 in 5 has experienced sexual violence. While it is important to improve responses to this violence, effective prevention strategies that tackle the underlying drivers of violence are necessary to meet the long-term goal of eliminating violence against women.

This submission draws upon the evidence from [*Change the Story*](https://www.ourwatch.org.au/resource/change-the-story-a-shared-framework-for-the-primary-prevention-of-violence-against-women-in-australia)(2021)*,* [*Changing the Picture*](https://www.ourwatch.org.au/resource/changing-the-picture)(2020)*,* and [*Changing the Landscape*](https://www.ourwatch.org.au/resource/changing-the-landscape)(2022)to inform its recommendations. These frameworks adopt the United Nations’ Declaration on the Elimination of Violence Against Women definition of violence against women, recognise violence against women as a fundamental violation of human rights, and draw attention to Australia’s international treaty obligations to prevent this violence.

*Changing the Landscape* alsonotes the primary responsibility of Australian governments for ensuring the health, safety and equality of women and people with disabilities as part of their international human rights obligations, including under the Convention on the Rights of Persons with Disabilities. *Changing the Picture* further draws on the United Nations Declaration on the Rights of Indigenous Peoples; work by the Special Rapporteur on the Rights of Indigenous Peoples, the Special Rapporteur on Violence against Women and the CEDAW committee; and resolutions by the United Nations Human Rights Council.

As a non-Indigenous organisation, Our Watch emphasises the importance of meaningful engagement with Aboriginal and Torres Strait Islander communities, leaders, and organisations to ensure that any actions or decisions that affect Aboriginal and Torres Strait Islander peoples are carried out in accordance with the internationally recognised principles of the United Nations Declaration on the Rights of Indigenous Peoples. Our Watch is committed to playing our part in addressing racism, power inequalities and other ongoing impacts of colonisation, and to working in solidarity with Aboriginal and Torres Strait Islander people to support culturally safe, and community-owned and led solutions.

## Response to Terms of Reference

### Question: Consider whether the Framework should be re-established, as well as the components of the Framework, and any improvements that should be made.

At a high level, Our Watch supports development of a strong and clear framework for the protection of human rights in Australia. This could, for example, include re-establishment of a Human Rights Framework and associated Action Plan provided it includes clear commitments and actions at a Commonwealth and state and territory level, and is supported by appropriate governance and accountability mechanisms to ensure it is meaningful and effective.

In re-establishing a Human Rights Framework, there is an opportunity to enhance other national frameworks, strategies and plans to ensure they take a human rights approach and to encourage appropriate alignment. This includes, for example, the National Plan to End Violence against Women and Children 2022-2032.

In addition to these high level points, Our Watch provides additional feedback below in relation to potential overarching improvements to the 2010 Framework and its specific components: reaffirm, educate, respect and protect.

#### **Reaffirm Australia’s obligations to eliminate all forms of discrimination against women, including violence against women**

In re-instating the Framework or developing a new Framework, Our Watch suggests that there is an opportunity to modify the component of *Reaffirm* to more clearly articulate concrete actions that can be measured and reported against in line with Australia’s commitments under United Nations human rights treaties.

As a party to CEDAW, Australia has committed to “pursue by all appropriate means and without delay a policy of eliminating discrimination against women” (Article 2). General Recommendation 35 of CEDAW explicitly recognises gender-based violence against women as a human rights violation and that States have an obligation to purse all appropriate means to eliminate gender-based violence. It further lays out a series of actions States should take in order to **prevent** violence against women.

Under the previous Framework and Action Plan (pages 37-41), however, there was a limited focus on the primary prevention of violence against women, as distinct from early intervention or response services. Primary prevention means stopping violence against women from occurring in the first place by addressing its underlying gendered drivers. Without changing the underlying social norms, power imbalances, institutions and practices that excuse, justify, or even promote violence against women, the problem of violence and all forms of discrimination against women cannot be eliminated.

Concrete commitments to fund and support actions towards the primary prevention of violence against women at all levels of society are important ways for the Australian Government to reaffirm its obligations under CEDAW.

**Recommendation 1:** Any Human Rights Framework and Action Plans should include a clear articulation of and commitment to primary prevention of violence against women to reaffirm Australia’s obligations as a State Party to CEDAW.

#### **Educate and engage all Australians, at every age and stage of life, to understand and reject the gendered drivers of violence against women.**

Under the previous Framework, the Australian Government committed to supporting human rights education across the community, including through primary and secondary school education programs, non-profit community education programs and new education initiatives by the Australian Human Rights Commission.

Our Watch supports the continuation of human rights education for all people in Australia and encourages the Australian Government to strengthen this commitment by articulating the need for education initiatives that support the elimination of violence against women and the realisation of women’s rights as human rights.

While many different strategies are needed to contribute to this population-wide approach, Respectful Relationships Education is a key example of prevention work in education settings. As detailed in Our Watch’s [Evidence Paper on Respectful Relationships Education in Schools (2021)](https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2021/03/29130252/RRE-Evidence-paper-accessible-100321.pdf), evidence-based and well-resourced Respectful Relationships Education can help create the generational change needed to prevent gender-based violence and meet our international human rights commitments.

Respectful Relationships Education is the holistic approach to school-based, primary prevention of gender-based violence. It uses the education system as a catalyst for generational and cultural change by engaging schools, as both education institutions and workplaces, to comprehensively address the drivers of gender-based violence and create a future free from such violence.

The deeply entrenched nature of the drivers of gender-based violence means that a long-term commitment and systemic approach are needed for Respectful Relationships Education to foster generational change. Political leadership and sustainable resourcing are necessary to drive such broad and long-term change, by ensuring that Respectful Relationships Education is recognised as core business for education departments and schools. A best-practice and sustainable model to Respectful Relationships Education requires all stakeholders – from schools to education departments and governments – to lead the way in supporting an evidence-based, consistent and unified approach.

The Australian Government has a role to play in expressing public support for gender equality and Respectful Relationships Education that addresses the drivers of violence against women, and providing national resources, guidance and regulatory support to promote consistent policy and practice across jurisdictions in line with evolving evidence. Further detail on the roles of other stakeholders can be found in [Our Watch’s RRE Policy Brief](https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2021/03/29130251/RRE-Policy-Brief-accessible-250221.pdf) (2021).

**Recommendation 2:** Any Human Rights Framework and Action Plan should acknowledge and commit to education initiatives that support promotion of gender equality, the elimination of violence against women and the realisation of women rights as human rights.

#### **Protect and Respect**

Under the previous Framework, the Australian Government committed to undertake broad reviews of legislation, policy, and practices, and to improve parliamentary scrutiny of new laws, to ensure compliance with Australia’s human rights obligations. In re-instating the Framework, Our Watch suggests that these actions be expanded to include specific commitments to gender responsive policymaking and budgeting.

Together with gender impact analyses of policies and programs more broadly, the introduction of gender responsive budgeting into a government’s budget processes can contribute to the establishment of important foundations for government action to achieve gender equality and prevent violence against women.[[1]](#footnote-2) Legislative mechanisms that ensure the institutionalisation, accountability and sustainability of gender-responsive policymaking and budgeting are critical to creating the long-term structural change necessary to achieve gender equality.

Our Watch acknowledges the Commonwealth Government’s introduction of gender responsive budgeting and gender impact assessments,[[2]](#footnote-3) and encourages the Commonwealth Government to further embed this change through institutional reform of national gender policy machinery. The current drafting of a National Strategy to Achieve Gender Equality offers an opportunity to establish principles and processes for best practice gender responsive policymaking and budgeting.

One option the Commonwealth Government may wish to consider is the enactment of gender equality legislation which mandates and institutionalises whole-of-government gender-responsive policymaking. The [*Gender Equality Act 2020* (Vic)](https://www.genderequalitycommission.vic.gov.au/about-gender-equality-act-2020) provides an example of a legislated approach to embedding gender equality in the core business of government and the public service.

**Recommendation 3:** Any Human Rights Framework and Action Plan include commitments to gender responsive policymaking, budgeting, and legislative review to enhance the focus on women’s rights in the development of government policies and practices.

#### **Overarching improvements to the Framework**

Our Watch welcomes the opportunity for the Australian Government to outline further commitments to support and fund primary prevention actions that will prevent human rights abuses, rather than relying on reactive human rights enforcement mechanisms.

As identified in *Change the Story*, primary prevention requires changing the social conditions — especially those grounded in gender inequality — that excuse, justify or even promote this violence. A primary prevention approach works across the whole population to address the attitudes, practices and power differentials that drive violence against women; it reaches people where they live, work, learn and play to address the drivers of violence and promote gender equity. This approach works best when supported by complementary political and institutional strategies, including public policy, legislation and regulation in order to shift the social structures that enable, drive or effectively condone this violence.

As a result, Our Watch suggests that there may be an opportunity to include a new operational component (in addition to reaffirm, educate, engage, respect, and protect), namely *Prevent*. The component of *Prevent* could include an explicit commitment to prevent violence against women by addressing the gendered drivers of violence against women identified in *Change the Story.*

An intersectional approach

In 2018, the United Nations Special Rapporteur on Violence Against Women made [specific recommendations for Australia](file:///C:/Users/sarah.copland/Downloads/A_HRC_38_47_Add.1-EN.pdf) to address violence experienced by Aboriginal and Torres Strait Islander women, women with disabilities, women who are incarcerated, women from refugee, asylum seeker and migrant backgrounds, and older women. As such, and as supported by the evidence in *Change the Story,* Our Watch encourages the Australian government to embed an intersectional lens across all components of any Framework and Action Plan.

While the previous Action Plan identified a range of specific and priority areas/groups and structured its actions accordingly, the Action Plan also noted that, “*for reasons of brevity and to avoid duplication, initiatives that address multiple groups and issues will appear only once in the plan, under the most relevant priority area*” and structured the priority actions accordingly.

Our Watch encourages the Australian Government to reconsider this approach in the development of any future Action Plans. While Our Watch understands the considerations behind the approach taken under the previous Action Plan, we note that this approach risks erasing intersectional experiences from the agenda and can result in actions that ignore, or even reinforce, exclusion and marginalisation. This is because intersectional experiences of violence and discrimination are not just additive but have their own unique impacts on individuals and communities. These impacts cannot be addressed by considering groups such as women, LGBTQIA+ people, people with disabilities, or refugees and asylum seekers — for example — as homogenous groups. Rather, as explained in [*Change the Story*](https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2021/11/18101814/Change-the-story-Our-Watch-AA.pdf)pages 17, 46-47, priority actions that are developed with specific attention to the intersections of violence and their various impacts within broader communities are more likely to produce an effective national approach. This can be supported by inclusive community consultation processes during the design phase of the Action Plan.

**Recommendation 4:** The Australian Government embed an intersectional approach across all components of any Human Rights Framework and Action Plan.

Working closely with Aboriginal and Torres Strait Islander peoples, Our Watch has produced a national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children, [*Changing the Picture*](https://media-cdn.ourwatch.org.au/wp-content/uploads/sites/2/2019/11/05233003/Changing-the-picture-AA-3.pdf)*.* As explained in *Changing the Picture,* Aboriginal and Torres Strait Islander women experience disproportionate rates of violence, and violence that is often more severe and more complex in its impacts. This resource further explains that it is important not to treat violence against Aboriginal and Torres Strait Islander women as an ‘Aboriginal and Torres Strait Islander problem’; this violence is an Australian problem, and the evidence shows that it is perpetrated by men of all cultural backgrounds.

*Changing the Picture* identifies the importance of addressing the intersecting drivers of violence against Aboriginal and Torres Strait Islander women in order to prevent this violence. Those drivers are:

* The ongoing impacts of colonisation for Aboriginal and Torres Strait Islander people
* The ongoing impacts of colonisation for non-Indigenous people and in Australian society
* Gendered factors – both gender and inequality in a general sense, and specific gendered drivers of violence that are a consequence of colonisation

*Changing the picture* makes clear that as part of a national effort to prevent violence against Aboriginal and Torres Strait Islander women, it is important for governments to address the legacies and ongoing impacts of colonisation by identifying and amending discriminatory laws, policies and organisational and institutional practices; addressing power inequalities, particularly in decision making positions; and challenging and preventing all forms of racism.

As a result, Our Watch suggests that there is an opportunity in any new Framework or Action Plan to acknowledge the drivers of human rights abuses against Aboriginal and Torres Strait Islander people in particular, including drivers of violence against Aboriginal and Torres Strait Islander women, and commit to addressing these drivers, including the legacy and ongoing impact of colonisation.

1. Organisation for Economic Co‑operation and Development (OECD). (2015). *Toolkit for Mainstreaming and Implementing Gender Equality: Implementing the 2015 OECD Recommendation on Gender Equality in Public Life*, OECD Publishing, Paris, p. 30. [↑](#footnote-ref-2)
2. Australian Government Department of the Prime Minister and Cabinet (2023). *Women’s Economic Equality*. Available at: <https://www.pmc.gov.au/office-women/womens-economic-equality>. [↑](#footnote-ref-3)