



natsiwa

NATIONAL ABORIGINAL AND
TORRES STRAIT ISLANDER WOMEN'S ALLIANCE

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WOMEN'S ALLIANCE**

Committee Secretary

House of Representatives Standing Committee on Social Policy and Legal Affairs

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Submitted online.

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Submission to the House of Standing Committee on Social Policy and Legal Affairs in response to the Inquiry into family, domestic and sexual violence

Introduction

The National and Torres Strait Islander Women's Alliance (NATSIWA) is the peak body for Aboriginal and Torres Strait Islander women in Australia. The leadership team of Directors are Aboriginal and Torres Strait Islander women each representing State and Territories across Australia.

Summary

Aboriginal women and girls in Australia have traditionally held the centre role in taking care of families and communities, it is now evident that they are suffering and no longer able to take on this role. This is through the different policies and laws in Australia that should be relevant to Aboriginal and Torres Strait women regarding housing, domestic violence, legal protection. Indigenous women interact within the legal system and policies in two major ways, as participants within it, and as women affected by it. Whilst the Australian Federal Government and State Governments have made attempts to provide human rights instruments for Aboriginal and Torres Strait Islander women and girls, they need to work more collectively to ensure equality. They need to work with Aboriginal and Torres Strait communities and women to address, implement and adopt policies, legislations and programs that have a cultural, holistic and rights-based approach for the empowerment and safety of Aboriginal and Torres Strait Islander women and girls. Aboriginal and Torres Strait Islanders of both gender struggle with issues of social equality, compared to non-Indigenous peoples. Australia has made a commitment through the signing of the CEDAW to promote policies, laws, organisational structures and attitudes that ensure women are guaranteed the same rights as men. Though, Australia has made a commitment there are still concerns with the number of policies and programs adopted to address the overrepresentation of Aboriginal and Torres Strait Islander women in prison, health, housing, domestic violence and equality before the law, that they still continue to be amongst the most disadvantaged among Australians with adverse situations.

Though for Aboriginal and Torres Strait Islander women, the systems are one size fits all approach that fails at times to respond to the cultural appropriate ways of Indigenous women's and children's experience with domestic and family violence.

Submission

The Challenging start to 2020 with the pandemic and associated restrictions now requires renewed consideration of how we reduce family, domestic and sexual violence in Australia. The pandemic has deepened pre-existing inequalities and exposed cracks in social, political and economic systems including access to health services and social protection.¹ Women with care responsibilities, informal workers, low-income families, and youth are under particular pressure and since the pandemic there has been a significant rise in domestic violence.²

A) Immediate and long-term measures to prevent violence against women and their children and improve gender equality.

Social, political, social protection, the economic systems has now deepened since the pandemic. The cracks that were there are now being exposed, this has put a lot more pressure on women, low income families, elders and youth as well as the rise in domestic violence. The first week of the nationwide lockdowns, which left many facing jobs loses, uncertainty over salaries, forced isolations and stressed household contributed to the rise of domestic violence.

Women's responsibilities have increased during the pandemic, these responsibilities include caring for children during the closure of schools, elderly and any other person who is a dependent in the household. Since lockdown began in early March, domestic violence reports began to rise, shelters could not take them because at that time the risk of infections was far too great.

An online survey of 15,000 Australian women which was conducted by i-link Research Solution between 6 May and 1 June 2020 of their experience of domestic violence during the initial stages of the COVID-19 pandemic.³ For many of the women, the pandemic coincided with the onset or escalation of violence and abuse.⁴ Two-thirds of women who experience physical or sexual violence by current or former cohabiting partner since the start of the COVID-19, many experience more serious or complex forms of violence and abuse, reported safety concerns were a barrier to help-seeking.⁵

Women need to be at ease to make calls for help, but when the entire family is at home and in lockdown, it is difficult for them to call the helplines, the strict lockdowns closed avenues to escape violence. At times, the police are not the first port of call for victims of domestic violence, therefor alternative arrangement must be put in place. Lockdowns can be for an exceedingly long period or there can be uncertainty to how long the lockdowns will be in place.

The home has become a place of fear from some women and children, providing perpetrators with additional power and control. Because of fewer police interventions, closures of courts and

¹ COVID-19:G7 Nations Need to Get Gender Equality Right for a Better Future for Women at Work-Women's UN report network, 28th May 2020

² ibid

³ Boxall H, Morgan A & Brown R 2020. The prevalence of domestic violence among women during the COVID-19 pandemic. Statistic Bulletin no.28. Canberra: Australian Institute of Criminology.
<https://www.aic.gov.au/publications/sb/sb28>

⁴ ibid

⁵ ibid

limited access to legal assistance/advice, limited access to counselling, alternative housing, and shelters, the women can feel very isolated.

In the framework of the pandemic, attention also needs to be paid to the possible longer-term effects on the balance between professional and personal life and on women's economic independence. The loss of income and reduction of economic activity is an additional factor to the rise in the inequality and poverty levels, especially affecting women, particularly women heads of households, as well as female workers in the informal economy.⁶

B) Best practice and lessons learnt from international experience, ranging from prevention to early intervention, which could be considered in an Australian context.

AFRICA

Pandemics are not new to the world, the African nations have previously had outbreaks, two of these Ebola and Zika. Women and Girls in African nations have already borne the brunt of these pandemics.

Lessons learned and measures have now been taken in fact risk perpetuating and deepening existing gender-based inequalities, discrimination and domestic violence in Africa. The UN Human Rights East Africa Regional office collaborated with the African Union Commission including its Gender Directorate, and in the context of the COVID-19 pandemic, both entities felt that it was important to contextualize the issue to the lived experiences of African women, focusing on the specificities and groups of women in Africa. The obligation to leave no one behind is contained not only in international human rights standards but also the African human rights standard was taken in consideration to the publication 'Seven Possible Actions-Women's Rights and COVID-19', which has been developed to assist Government Ministries in Africa. This involved planning and responding to the COVID-19 as well as the advocacy work from civil society organisations and women's human rights defenders.

This publication is a tool that the States and civil society can use and monitor whether the Government is meeting their obligations and duties under the international human rights law.

The seven points are:

1. Economic Measures
2. Access to Healthcare
3. Gender-based violence
4. Access to Food, Water and Sanitation
5. Participation in Decision-Making
6. Humanitarian
7. Collection of Data and Information

⁶ Joint call by the EDVAW Platform of independent United Nations and regional expert mechanisms on violence against women and women's rights on combating the pandemic of gender-based violence against women during the COVID-19 crisis.

FRANCE

In an order to address an anticipated rise in violence against women, France announced that it would pay for 20,000 hotel bookings and contribute one million dollars to organisation that fight domestic violence abuse as well as set up assistance points at supermarkets and pharmacies.

MEXICO

The Government launched a much-ridiculed series of public service videos about how to prevent domestic violence during the stay-at-home order. One ad presented a selection of stressful moments in a typical household. As tensions built, it advised everybody to count to ten to calm down and 'take out the white flag of peace', then showed the family members smiling and waving small flags.

c) The level and impact of coordination and accountability for services and policy responses across the Commonwealth, state and territory governments, local governments, non-government and community organisations, and business

Comprehensive measures were implemented and calibrated to slow down transmission and to reduce mortality associated with COVID-19, this was the approach united by every government department, school, hospital, community organisations and business to work collectively to stop the spread of COVID-19. A National action plan was put in place, and NACCHO, peak bodies, traditional owners and councils coordinated for the health and wellbeing of Aboriginal and Torres Strait Islander peoples and communities.

Though, the underlying issues that had effects on the community pre-COVID-19 need to be addressed, water, sanitation, shortage of housing and domestic violence safe houses should now be extended to a national plan and include the area of response that disproportionately affect women and girls and in particular Aboriginal and Torres Strait Islander women.

Support systems must be in place for Aboriginal and Torres Strait Islander communities and urban areas, food security, mental health, the need to protect the women and children from an increased risk of domestic and family violence.

D) The way that health, housing, and women's economic independence affect the ability of women to escape domestic violence

The Barriers, to health, housing and women's economic independence affect the ability for Aboriginal and Torres Strait Islander women to escape domestic violence and provides greater impact.

Aboriginal and Torres Strait Islander women have a higher rate of many illness, such as diabetes and kidney problems. Many of the women may not be going to health services or accessing the right medical requirements because of the restrictions on movements and because of the long distance those services maybe from their communities. If they are experiencing domestic violence and the partner is now at home with them, they may not be allowed to leave the house alone. They have inadequate protection to stay safe and minimal support if they get sick, they also may fear not going to the hospitals for fear of infection.

Aboriginal and Torres Strait Islander women and children have extremely limited housing pathways to choose from in the aftermath of domestic and family violence. Transitional and long-term housing particularly in regional and remote locations. Therefore they are turned away from refuges and safe houses because they are at capacity. This leaves them in a revolving door situation between crisis and transitional services, homeless, often involving shelter with family/friends or returning to an unsafe home. This is the likely key factor in the high rates of domestic and family violence related injury among Aboriginal and Torres Strait Islander women.

For Aboriginal and Torres Strait Islander women in remote areas, rates of crowded households are much higher in remote communities (34%) than in urban area (8%).⁷ Research in the Barkley region in Northern Territory, 500 km north of Alice Springs, found up to 22 residents in some three-bedroom houses.⁸

Limited housing pathways and overcrowding of houses places Aboriginal and Torres Strait Islander women at risk of having their children removed by Family Services, as long term stable housing cannot be secured in a realistic timeframe given the policies and legislations for transitioning children to permanent care.

The Covid-19 puts more of a strain on existing housing issues for Aboriginal and Torres Strait Islander women with some shelters having to reduce services or close due to a public health and physical distancing rules. The deeply embedded and systemic shortfalls in housing and social support for Aboriginal and Torres Strait Islander women shows the issues need to be tackled beyond expanding emergency housing support.

COVID-19 offers Australia an opportunity to reimagine its overall response to homelessness, especially as many public conversations are now focused on systemic barriers that cause disproportionately negative outcomes for some populations.

More funds are needed with respect to addressing housing and emergency responses for Aboriginal and Torres Strait Islander women.

The lack of economic autonomy prevents Aboriginal and Torres Strait Islander women from escaping domestic and family violence. Most of the women who tolerate domestic violence or do not pursue justice through reporting to the police or going through the court systems often do so because they lack economic independence or self-esteem.

Aboriginal and Torres Strait Islander women's businesses and women-led enterprises have been hit hard by the COVID-19, by losing business it affects the community-based production chains that provide livelihoods for many families.

Tourism, handcrafts and consultants' sectors where many of the women participate are amongst the worst hit by the pandemic. To rebuild means putting Aboriginal and Torres Strait Islander women at the centre of efforts, going beyond emergency relief and assistance, and focus on strengthening their economic empowerment.

⁷ The Conversation-Nina Lansbury Hall, Andrew Redmond, Paul Memmott, Samuel Barnes-
<https://theconversation.com/fix-housing-and-youll-reduce-risks-of-coronavirus-and-other-disease-in-remote-indigenous-communities-136049>

⁸ ibid

The Government need to partner with Aboriginal and Torres Strait Islander women's business and enterprises to bring their voices and experiences to the forefront of the COVID-19 prevention and response to strengthen collaboration with them and communities.

Economic empowerments need to be at the centre of the national agenda as well, this is a time for action and to create transformative impacts on Aboriginal and Torres Strait Islander women's livelihood to generate better economic opportunities for women in business and enterprises.

This can empower and improve the livelihood of Aboriginal and Torres Strait Islander women as well as have a positive impact on their families and communities.

E) All forms of violence against women, including, but not limited to, coercive control and technology-facilitated abuse

During Covid-19, connecting online and using technology can be essential for many women who are at home this is also a potential risk for them. The range of behaviours through technology-facilitated abuse; abusive text messages or emails, making continuous threatening phone calls, spying or monitoring victims without their consent.

F) The adequacy of the evidence base around the prevalence of domestic and family violence and how to overcome limitations in the collection of nationally consistent and timely data including, but not limited to, court, police, hospitalisation and housing

Australia as a State member to the United Nations Sustainable Development Goal the agenda sets out a comprehensive vision for economic, social and environmental development with⁹ health integral with the 17 Sustainable Development Goals. This was endorsed by Australia in September 2015 with achievement by 2030. This requires the transformation of deeply rooted systems; this is why evidence data is important to provide evidence base around prevalence of domestic and family violence, identifying areas of what health services are available and not available, communities using underground water and are on basic cards. Data is crucial for helping decision-makers develop effective polices, programs, prevention and interventions.

Currently there is no nationwide data available on the number of family and domestic violence orders in effect, in selected jurisdictions, data are available about the number of family and domestic violence orders or applied for through the court systems. Domestic violence is not considered a criminal offence, this can affect women reporting any form of violence against them.

Hospitalisations data are from the National Hospital Morbidity Data (NHMD), and national collection of hospitalisation records maintained by the AIHW.¹⁰ Although data on hospitalisation from the NHMD can reflect an aspect of the burden of disease in the community, they do not usually provide measures of the incidence of prevalence of conditions.¹¹ Episodes of care for non-admitted patients treated in hospital in emergency department or outpatient clinics are not included in the hospitalisation counts.

⁹ <https://www.pc.gov.au/research/ongoing/overcoming-indigenous-disadvantage/2016/report-documents/oid-2016-appendix3-data-limitations.pdf>

¹⁰ *ibid*

¹¹ *ibid*

Therefore not all hospital assaults due to family, domestic and sexual assaults are reported to the police and they are not identified as such, and the national data on victims presented at the emergency department due to the above assaults are available.

Service agencies need to be funded, provided with resources and support more with training on data collections, as well as having it as one of their primary responsibilities and to be consistent.

There is lack of data regarding Aboriginal and Torres Strait Islander women, this lack of data makes issues not being properly understood and it can make it challenging to develop the right cultural policies and infrastructure to address their issues. While the needs of governments and researchers are generally well provided for, the needs of Aboriginal and Torres Strait Islander community and other organisations who work with and for the peoples are not well met due to their reliance on community controlled collections that are relatively poorly resourced.¹²

The true extent of family and domestic violence is difficult to determine due to under-reporting by victims, lack of appropriate screening, incomplete identification of Aboriginal and Torres Strait Islander people in many data sets and problems of quality and comparability of existing data.

For example; data provided by the annual ABS Crime Victimization Survey measures physical, sexual and threatened assault, but only captures the relationship between the victim and the offender, it does not measure other types of abuse that may cause emotional harm.¹³ The most recent, representative population legal needs survey in Australia is the Legal Australian-Wide Survey which interviewed over 20,000 residents focused on physical and sexual assault in a domestic context, but did not capture emotional.¹⁴

Developing a module of a minimum set of national standardised data items that allow reporting on the perpetrator of violence and the different types of violence, along with contextual information is crucial.¹⁵

“Good data is key to understanding – and ultimately dismantling – the complex relationship between hunger, inequality, and disempowerment that women and girls in many parts of the world experience.” According to Jacqueline Paul, senior gender adviser at the World Food Programme.

G) The efficacy of perpetrator intervention programs and support services for men to help them change their behaviour.

Early intervention measures for men are now recognised as an essential part of an effective plan to reduce violence against women and children. There are now changes to a number of states Domestic Violence legislation, which now empower courts to divert men to these programs, we are seeing a dramatic increase in demands for these services. If the Government intends to

¹² Closing the gap clearinghouse, Australian Government, Australian Institute of Health and Welfare, Australian Institute of Family Studies, Data about and for Aboriginal and Torres Strait Islander Australians, Issues paper no.10 prepared for the Closing the Gap Clearinghouse, Nicholas Biddle, July 2014

¹³ Justice Issues-paper 32-June 2019-ISSN 1834-7266, Law and Justice Foundation of the New South Wales, Quantifying the legal and broader life impacts of domestic violence-Christine Coumaralos

¹⁴ *ibid*

¹⁵ Family Violence among Aboriginal and Torres Strait Islander peoples, Fadwa Al-Yaman, Mieke Van Doeland and Michelle Wallis, November 2006, Australian Institute of Health and Welfare Canberra

contribute to intervention with violence against women and children, then they need to address the inadequacies in the area of men's violence interventions.

The Closing the Gap Clearinghouse report provides clear evidence that programs are successful when designed and delivered with Aboriginal People. Utilising culturally responsive practice is important to instil positive cultural norms when addressing issues of family violence.¹⁶

Working to eliminate violence against women and children in Aboriginal communities in Australia is complex, multi-layered endeavour. Aboriginal men's family violence programme addresses the issues of fathering in the context of family violence.¹⁷

As evidence has shown since the COVID-19, domestic and family violence has risen and it is important to now address more cultural service as well as having the participation of men and women at the table when the government is considering changes.

H) The experiences of all women, including Aboriginal and Torres Strait Islander women, rural women, culturally and linguistically diverse women, LGBTQI women, women with a disability, and women on temporary visas.

For Aboriginal and Torres Strait Islander women, they learn to be community minded and to help each other. While they are not prepared for the pandemic, they have had strong survival spirits. For some, they cannot make phone calls, leave their homes or take public transport this is because of remoteness as well as some may not have the money.

One of the concerns are for Aboriginal and Torres Strait Islander women in remote communities is the isolation. Though remote communities have been kept safe from the COVID-19 and Aboriginal Councils, peak organisations and traditional owners were able to develop effective local strategies and respond independently and early to the pandemic, the women who are in domestic and family violence had no options but to be at home with the perpetrator. Data will never show the real level of domestic and family violence nor in will be able to measure the different sorts of abuse that has taken place behind closed doors. Sadly, this is where women really do become voiceless, and even more so for Aboriginal women who live remotely they too can become invisible as there are limited police on site due the monitoring of boundaries in place to maintain restrictions to protect the communities from COVID-19.

I) The impact of COVID-19, including health requirements such as staying at home, on the prevalence of domestic violence and provision of support services

Hand hygiene and sanitation is a critical element in preventing the spread of COVID-19

Health systems are overburden with maintaining the COVID-19 and resources are reallocated to respond to the pandemic, this disrupts the health services to people on treatment, such as cancer patients who have to be isolated and the need to distance themselves from other to reduce the risk of infection. Not everyone has access to the internet, it is not possible for them to use video calling tools such as FaceTime or Skype to communicate.

¹⁶ Holistic programme development and responses to Aboriginal men who use violence against women-David Illis ,Alfie Bamblett, Cathy Humphreys, Ronald Briggs, Walter Harrison, Shawana Andrews,

¹⁷ ibid

Cancelling elective surgery has had a substantial impact on patients and consequence for health systems in Australia.

J) The views and experiences of frontline services, advocacy groups and others throughout this unprecedented time.

Health and welfare professionals who are often early points of contact for people experience DFV are GPs and telephone and online crisis and counselling services.¹⁸ While they may be well-placed to make referrals to legal services, they may not always be well-equipped to do so.¹⁹ They may require more formal collaborative mechanisms with legal services providers, as well as training, support and additional funding, to effectively notice legal problems and refer clients to legal assistance.²⁰ In response to the COVID-19 pandemic, a national Aboriginal and Torres Strait Islander COVID-19 working party has been convened through the Transforming Indigenous Mental Health and Wellbeing project at the University of Western Australia to produce an independent report that addresses the specific mental health, and social emotional wellbeing needs of Aboriginal and Torres Strait Islander peoples in Australia.²¹

K) Any other matters.

Aboriginal and Torres Strait Islander were 10.2 times more likely to be residing in out-of-home-care, data is available on how many children are removed but there is a lack of focus on supporting their safe reunification with family is evident in the absence of publicly available data to describe the rate at which Aboriginal and Torres Strait Islander children reunified with their parents.²²

As 30th June 2018, 17,787 children in OOHC were identified as Aboriginal and Torres Strait Islander, at a rate of 59.4 Aboriginal and Torres Strait Islander children in every 1,000 children.²³

Aboriginal and Torres Strait Islander parents who have their children in care with current parenting arrangements in place, they must continue to follow them. One of the biggest concerns for these orders are:

1. Restriction on visits, there are no face to face contact visits, and it is up to the carer to make arrangement and not Family Services. Instead families (parents and children) are to rely on video and telephone calls to maintain their relationships. This is having devastating impacts on families, because if a parent misses the time to ring the child/children, this then goes against them. Example if a child is a baby or young and they can only do video or telephone calls how is the mother and daughter able to bond, this can cause significant harm to the child, and

¹⁸ ibid

¹⁹ ibid

²⁰ ibid

²¹ A National COVID-19 Pandemic Issues Paper on Mental Health and Wellbeing for Aboriginal and Torres Strait Islander Peoples.

²² Family Matters Report 2019- https://www.familymatters.org.au/wp-content/uploads/2020/02/1097_F.M-2019_LR.%C6%92updated.pdf

²³ Australian Government, Australian Institute of Family Studies-Child Protection and Aboriginal and Torres Strait Islander children-CFCA Resource Sheet-January 2020

also it can cause stress for the mother/parents. In practical terms there is no access, contact between children and families which is vitally important.

Aboriginal women are the largest cohort of prisoners in Australia, despite making up only 2 percent of the population, about 80 percent of these women are mothers, most are on remand and few have committed any serious crime.

Recommendations

That specific attention is paid to Aboriginal and Torres Strait Islander women in terms of accessibility, the ability to maintain social distancing, clean water, access to healthy food, housing, children in out of home care and parenting planning, women in prison, and essential support service during a pandemic.

Address existing digital gaps and accessible access to better communication on remote communities.

NATSIWA support the recommendations from the Aboriginal Mental Health Workforces

1. Self-determination – Support Aboriginal and Torres Strait Islander leaders and organisations to lead the pandemic mental health responses for their peoples and communities. This calls for direct funding to Indigenous organisations to fund Indigenous-led actions which will best meet the needs of Indigenous peoples, families and communities.
2. Health and Mental Health Workforce – Improve the accessibility of culturally safe care that meets the needs of families and communities. It is critical to support and appropriately utilise the existing local workforce, and to create and grow a longer-term, place-based, multidisciplinary Indigenous social and emotional wellbeing (SEWB) workforce.
3. Social and Cultural Determinants - Implement the National Strategic Framework for Aboriginal and Torres Strait Islander Peoples' Mental Health and Social and Emotional Wellbeing 2017-2023 to enable culturally safe and sustainable approaches to improved mental health. Social determinants of health must be addressed and SEWB programs that are designed, delivered and culturally informed by Indigenous peoples must be supported.
4. Digital and Telehealth - Provide accessible and affordable Internet access and ensure digital and tele-health services to Indigenous communities are culturally safe and trauma-informed. o An Indigenous-led helpline to be made available immediately.
5. Evaluation – Implement a comprehensive quantitative and qualitative national research and evaluation program that covers urban, regional, and remote communities, promotes accountability of funding models, and enables Indigenous data sovereignty.