



Note number: 27/2012

The Australian Permanent Mission to the United Nations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and the Working Group on discrimination against women in law and practice.

The Australian Government has the honour to refer to correspondence by the Working Group on discrimination against women in law and practice, of 8 December 2011, requesting information regarding practices and significant legislative and policy reforms adopted for the advancement of women's rights and gender equality in times of political transition.

The Australian Government has the further honour to enclose, for the Working Group on discrimination against women in law and practice's consideration, its response.

The Australian Permanent Mission to the United Nations avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights and the Working Group on discrimination against women in law and practice, the assurances of its highest consideration.



8 March 2012

OHCHR REGISTRY

- 9 MAR 2012

Recipients :.....S.P.D.....

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**United Nations Questionnaire on Discrimination against Women in
Law and in Practice
Australia's Response
February 2012**

Introduction:

The Australian Government is committed to the protection and promotion of human rights. Australia is a party to a number of treaties protecting human rights and non-discrimination including the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic Social and Cultural Rights*, the *Convention on the Rights of Persons with Disabilities*, the *Convention on Elimination of All Forms of Racial Discrimination*, the *Convention on Elimination of All forms of Discrimination Against Women* and a number of International Labour Organization Conventions.

The Government believes that people are entitled to respect, dignity and the opportunity to participate in society regardless of their sex.

The Government thanks the Office of the High Commissioner for Human Rights (OHCHR) for the opportunity to provide input on these important issues.

About Australia's response:

Australia is a constitutional democracy with a parliamentary system of government based on the rule of law. The Australian Constitution, which commenced in 1901, establishes a federal system in which legislative, executive and judicial powers are shared or distributed between federal institutions, six States and three self-governing Territories. In each of these political units there is a parliament elected by the people, an executive responsible to that parliament which is formed by the party (or parties) commanding a majority (except Norfolk Island, which currently does not have a party structure), and an independent judiciary.

Australia understands 'political transition' in this context as meaning significant alteration to the system of government. Australia's political system is stable and there have been no instances of 'political transition' since the entry into force of the *Convention on the Elimination of All Forms of Discrimination against Women* in 1980. This response provides general information on the protection of rights for women in Australia and experiences at the international and bilateral levels.

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AUSTRALIA

PROTECTING THE RIGHTS OF WOMEN IN AUSTRALIA

Australia was one of the original signatories to the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)* in 1980 and ratified it in 1983. Australia formally acceded to the CEDAW Optional Protocol on 4 December 2008. The protocol entered into force in Australia on 4 March 2009.

The following legislative and policy measures have been put in place since 1983 to comply with the provisions of CEDAW and uphold its aims with respect to the protection of women's rights and gender equality more broadly.

The Sex Discrimination Act 1984

The Sex Discrimination Act is one of the key instruments through which Australia seeks to achieve gender equality and eliminate discrimination against women¹. The Act gives effect to certain provisions under CEDAW. Specifically, the Act recognises the need to eliminate, as far as possible, discrimination against people on the grounds of sex, including breastfeeding, marital status, pregnancy or potential pregnancy in the areas of employment, accommodation, education, the provision of goods, facilities and services, the disposal of land, the activities of clubs and the administration of Commonwealth laws and programs. The Act also prohibits discrimination on the basis of family responsibilities in employment and makes sexual harassment unlawful in the workplace, educational institutions and in other areas of public activity.

In June 2011, the Sex Discrimination Act was amended to include breastfeeding as a separate ground of discrimination, extend protections from discrimination on the grounds of family responsibilities and provide greater protection from sexual harassment for students and workers.

The Australian Human Rights Commission is the primary body through which Australians can make a complaint of discrimination or sexual harassment under the Act. The Commission attempts conciliation of complaints. If conciliation is not possible, the complainant can take further action in a federal court.

The Act also establishes the role of the Sex Discrimination Commissioner in the Commission. The Role of the Sex Discrimination Commissioner is to lead the Commission's work in addressing sex discrimination, sexual harassment and other barriers to gender equality.

State and Territory legislation also provides protections from sex discrimination and sexual harassment.

Australia's Human Rights Framework

On 21 April 2010, the Attorney-General launched Australia's Human Rights Framework,² informed by the report of National Human Rights Consultation Committee delivered to

¹ Act available at:

<<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/all/search/99327A010C648560CA257607002370CF>>

² See: <<http://www.ag.gov.au/humanrightsframework>>

Government on 30 September 2009. The Framework is firmly grounded in a reaffirmation of Australia's commitment to the core United Nations treaties to which Australia is a party, including CEDAW.

On 4 January 2012, the *Human Rights (Parliamentary Scrutiny) Act 2011*³ and the *Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Act 2011*⁴ commenced. These Acts implement key legislative elements of the Framework and promote the consideration of human rights in the development of both policy and legislation. The Acts include a requirement for all new Bills and disallowable legislative instruments to be accompanied by a Statement of Compatibility with the rights and freedoms in the seven core human rights treaties to which Australia is a party, including CEDAW. The Acts will also enhance Parliamentary scrutiny of legislation for compatibility through the establishment of a new Parliamentary Joint Committee on Human Rights. The Committee will have functions of examining Bills, Acts and delegated legislation for human rights compatibility. Additionally, the Attorney-General may refer any human rights matter to the Committee for inquiry and report. It is expected that the Parliamentary Committee will be established in March 2012.

Anti-Discrimination Consolidation Project

A key measure of Australia's Human Rights Framework is the consolidation of Commonwealth anti-discrimination laws into a single law. The aim of the project is to reduce the complexity and inconsistency in existing anti-discrimination regulation to make it easier for individuals and business to understand their rights and obligations under the legislation. This consolidation will include the Sex Discrimination Act, and will also implement the Government's commitment to prohibit discrimination on the basis of sexual orientation and gender identity.

Equal Opportunity for Women in the Workplace Act 1999

The Equal Opportunity for Women in the Workplace Act (EOWW Act) promotes the development and implementation of programs to enhance equal opportunities for women in private sector workplaces⁵. A slowing of progress with respect to equal opportunity prompted a Government review of the EOWW Act in 2009. The review examined the effectiveness and efficiency of the legislation to ensure it is well-targeted and cost-efficient. The Bill reflecting changes to the EOWW Act, as announced by the Government in March 2011, has not yet been tabled in Parliament. This is expected to occur in the first half of 2012. The Equal Opportunity for Women in the Workplace Agency was established to administer the EOWW Act and works with employers to improve equal opportunity outcomes for women in the workplace.

³ Act available at: <<http://www.comlaw.gov.au/Details/C2011A00186>>

⁴ Act available at: <<http://www.comlaw.gov.au/Details/C2011A00187>>

⁵ Act available at:

<<http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/all/search/84222DEAC0CBAA00CA2575F5000B1D10>>

The Fair Work Act 2009

The Fair Work Act includes improved equal remuneration provisions to help deliver better pay equity outcomes. The new National Employment Standards contained under the Act also deliver increased workplace flexibility, giving parents the right to request flexible working arrangements when returning to work after the birth of a child and effectively doubling the amount of unpaid parental leave available to families to up to 24 months per couple. The Fair Work Act also includes other opportunities to improve women's economic security including a fairer safety net, and facilitated bargaining in low-paid industries.

Comprehensive Paid Parental Leave Scheme

From 1 January 2011 Australia introduced its first comprehensive paid parental leave scheme. This gives parents more options in balancing their work and family responsibilities while also helping women to maintain their connection with the workforce. Eligible working parents can get 18 weeks of government-funded Parental Leave Pay at the rate of the National Minimum Wage.

Women in Senior Leadership

The Government publicly released the first Women on Australian Government Boards and Bodies Report in 2008-09, to demonstrate accountability and transparency in Government board appointments.

In addition, the Australian Public Service Commissioner released the *Merit and Transparency: merit-based selection of APS agency heads and APS statutory office holders guidelines* in February 2009. These guidelines encourage merit-based selection, and an increase in the representation of women in senior government appointments through the use of candidate registers such as the AppointWomen register. This is an online register which matches board-ready women with Commonwealth agencies who are seeking candidates for board positions.

INTERNATIONAL AND BILATERAL EXPERIENCES

United Nations Security Council Resolution (UNSCR) 1325

The Australian Government strongly supports UNSCR 1325 and the related resolutions that form the Women, Peace and Security agenda. To strengthen this commitment, the Government is developing an Australian National Action Plan on Women, Peace and Security (the National Action Plan).

The National Action Plan is a long term and transformative whole-of-government policy. It will represent a determined and coordinated effort to further integrate a gender perspective into Australia's peace and security efforts, protect women and girls' human rights and promote their participation in conflict prevention, management and resolution.

A rigorous consultation process has informed the development of the National Action Plan. The Government released a Consultation Draft National Action Plan on 18 August 2011, along with a call for written submissions from the Australian public. The Government hosted a non-government roundtable in November 2011 to further explore key themes raised in the submissions. Feedback provided through this consultation has been thoroughly considered in the development of the National Action Plan.

The non-government sector has played a critical role in advocating for and shaping the National Action Plan. The Government will continue to work with the non-government sector to implement the National Action Plan when it is released.

The National Action Plan is scheduled to be released in mid-2012.

International Programs funded by the Australian Government

The following examples outline a number of the international programs funded by the Australian Government to advance women's rights regarding the implementation of law and policy.

UN Women: Gender Equality in Political Governance (GEPG)

The Australian Government is funding the GEPG program over five years, from 2008 to 2012.

GEPG's main development goal is the advancement of gender equality in political governance in the Pacific. The principal objective is to increase political participation by women as active citizens and leaders. GEPG aims to move women into the mainstream of political life, by empowering them to become better informed and educated about political systems and more able to organise, represent themselves, and to advocate and dialogue effectively for the adoption and implementation of laws, policies and budgets to advance gender equality in the structures and systems of governance.

The programme targets 15 Pacific Island countries: Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

Vanuatu Family Protection Act

Australia has provided support for the development and passing in legislation of the Vanuatu Family Protection Act, as well as for the establishment of a National Family Protection Taskforce to oversee implementation of the Act. Australia will also support the Vanuatu Department of Women's Affairs to provide training of 'authorised persons' to issue temporary protection orders to ensure safety of women and their families.

PNG – reserved seats for women

Australia is committed to helping local PNG organisations advance their gender equity goals through the funding of programs which help PNG women to take up leadership positions across

all aspects of life. These include in government, law courts, business, education and within communities.

PNG's Equality and Participation Bill, introduced by Dame Carol Kidu, aims to reserve 22 seats in Parliament for women. The Australian Government supported this process by contracting legal specialists to advise on the preparation of constitutional and organic law amendments required for the introduction of reserved seats for women.

Two Bills are currently before the PNG Parliament to create the 22 reserved seats for women. The first, a Constitutional amendment, was presented to Parliament on 6 September and was passed. The second, amendments to the *Organic Law on National and Local Government Elections*, to enable the creation of the seats, was defeated in November 2011. The Bill was put before Parliament again on 22 February 2012 but again was unable to achieve the required 73 votes in favour. The amendments will not come into effect before the June/July 2012 election. The Bill will need to be reintroduced into the new Parliament following the election.

Australia is also supporting PNG to increase gender equality within the Parliament and across the government by:

- supporting the development of women leaders through training to equip women with skills needed to participate in democratic politics, including an understanding of the rules of elections, developing an elections strategy and budgeting for elections;
- funding the UN Development Program's Women in Leadership Program to develop a strategy that aims to increase awareness, participation of women voters and the number of women in Parliament;
- implementing the Electoral Support Program in PNG, which supports the PNG Electoral Commission to: actively recruit women as polling officials; target young women graduates to become Assistant Election Managers; roll out separate polling booths for women; and to target women during civic and voter awareness campaigns.

Supporting women's leadership in peace building in the Horn of Africa- Club Madrid

Funding to Club Madrid's 'Women's Leadership for Peace and Security in the Greater Horn of Africa' program in 2010-11 sought to advance women's contribution to, and participation in, national and regional peace and security decision-making processes and political dialogue in the Horn of Africa. This program works with women in the region to mainstream women's concerns into policy formulation, government spending and security sector reform. Women participants are drawn from civil society organisations in Djibouti, Eritrea, Ethiopia, Somalia, Sudan and Uganda.

Developmental Leadership Program

The Australian Government is supporting the Developmental Leadership Program which has a significant focus on women's leadership. The research findings and policy implications are assisting the Government to more effectively support women's leadership at all levels of society, including in political and public life.