



A F F I L I A T I O N O F  
A U S T R A L I A N W O M E N ' S  
A C T I O N A L L I A N C E S

Response to the  
Call for Contributions  
OHCHR comprehensive report on  
mental health and human rights  
3 October 2024

The Affiliation of Australian Women's Action Alliances (AAWAA) welcomes this opportunity to provide input to the UN OHCHR's forthcoming report on mental health and human rights. AAWAA is an Australia-wide organisation that advocates for the human rights of women and girls especially where we are vulnerable on the basis of our sex. We campaign against gender stereotyping and homophobia, and we also advocate for young people, especially girls, impacted by the practice of invasive treatments for gender dysphoria.

We acknowledge and appreciate the recognition – reflected in past OHCHR reports and the WHO/OHCHR guide – that human rights violations, including forms of violence and discrimination, are significant contributors to adverse mental health outcomes. The link between systemic abuse and psychological distress underscores the urgent need for policies that address these critical issues, especially for women and girls.

The following provides our inputs focussed on the mental health and human rights of women and girls.

**(a) Existing legal and policy measures applied for the realisation of the human rights of women and girls in the context of mental health**

While Australia is a high-income country with well-developed legal and healthcare systems, male violence and abuse continue to have a severe impact on the mental health of women and girls. On average, one woman is killed by a current or former male partner every ten days, while countless others are left traumatised.<sup>1</sup> Women with disabilities experience even higher rates of male violence.<sup>2</sup> This problem transcends social class, underscoring the need for sustained and comprehensive efforts to enforce legal protections and improve support services. While we acknowledge recent reforms, such as the introduction of paid domestic violence leave and a positive duty on employers to address sexual harassment in the workplace, much remains to be done.

Our organisation is also profoundly aware of the plight of our sisters in UN member states, including those in our region, where women and girls face even fewer protections from male violence. It is estimated that 60% of UN member states have yet to criminalise marital rape, and many still practice corporal punishment for adultery.<sup>3</sup> Despite some progress, sixty-

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<sup>1</sup> [Counting Dead Women Australia.](#)

<sup>2</sup> [Australia's Disability Strategy 2021–2031 Outcomes Framework: Second annual report. Violence against women and their children,](#) Australian Institute of Health and Welfare, January 2024.

<sup>3</sup> [Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention,](#) Report of the Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, July 2021.

seven countries continue to criminalise same-sex conduct,<sup>4</sup> underscoring the urgent need for broader human rights protections.

**(b) New challenges impacting the mental health and human rights of women and girls**

AAWAA is concerned that the introduction of ‘gender identity’ into law and policy, without sufficient safeguards to protect the rights of women and girls, is creating new forms of discrimination that exacerbate existing mental health challenges. This is particularly evident in mental health care settings, as well as in prisons and rape crisis centres, where women – many of whom are survivors of sexual abuse – are already struggling with stress, depression, and trauma. Research shows that trauma-informed, women-only services are essential to effective recovery, as they offer a safe environment free from further distress.<sup>5</sup>

In Australia, women-only medical and legal services proved highly effective over many years; however, these services have become increasingly difficult to access and sustain as policies prioritising gender identity over biological sex have led to services repurposing themselves as general – as opposed to female-only – services to pre-empt potential funding restrictions and backlash. This has impacted economically vulnerable and migrant women in particular.

The shift to prioritise gender identity in law and practice has also had a profound impact on lesbians, who have found their communities and spaces disrupted by others, forcing them underground, leading to increased isolation, erasure, and significant mental health impacts. Gender ideology has also fostered new forms of homophobia, including internalised homophobia. Detransitioners – people who regret medicalising their gender distress – including a growing number of women have reported that their transgender identity masked their same-sex attraction. These women now speak out about the consequences of this confusion, particularly the irreversible impacts of medical intervention on their bodies and mental health.

**Conversion therapy bans**

AAWAA is concerned that legislated bans on so-called ‘conversion therapy’ for gender dysphoria in Australia are exacerbating these mental healthcare challenges. This is disproportionately impacting girls and young women who dominate presentations at gender clinics (as they do elsewhere).<sup>6</sup> While these laws may be well-intentioned, aiming to prevent the heinous practice of gay conversion, they are misapplied in the context of gender identity. The needs of young people who identify as transgender or gender-diverse are complex: their identities are often fluid, and many may be struggling with co-occurring conditions such as autism, depression, anxiety, trauma, or internalised homophobia.

Banning exploratory therapy, which allows for nuanced psychological interventions, may unintentionally push young people towards irreversible medical treatments, which in turn carry risks such as infertility, sexual dysfunction, and other severe physical and mental health outcomes.

A growing number of national health authorities, after thorough reviews, are mandating exploratory psychological interventions instead of blanket affirmation for young people suffering gender dysphoria.<sup>7</sup> We urge the UN and WHO to advocate for legislators to exclude professional psychological services from conversion therapy bans for gender

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<sup>4</sup> [UNAIDS urges all countries to decriminalise homosexuality as a vital step in ensuring health for all](#), UNAIDS, May 2023.

<sup>5</sup> [Trauma-informed services for women subjected to men’s violence must be single-sex services](#), Karen Ingala Smith, July 2020; [Experiences of women receiving trauma-informed care: A qualitative systematic review](#), *Trauma, Violence, & Abuse*, May 2024.

<sup>6</sup> [Gender dysphoria in young people is rising—and so is professional disagreement](#), *BMJ*, 2023;

<sup>7</sup> These include the [Danish Health Authority](#), [Finnish Medical Society](#), [Council for Choices in Health Care](#) (COHERE, Finland), [Norwegian Healthcare Investigation Board](#) (UKOM, Norway), [National Board of Health and Welfare](#) (Socialstyrelsen), [Clinical Advisory Network on Sex and Gender](#), (UK).

dysphoria, particularly as they affect women and girls. Legislators should consider this evolving evidence and ensure that all young people navigating these complex issues have access to a full range of therapeutic options rather than being limited by these restrictive laws.

**(c) Specific feedback for the OHCHR/WHO Mental Health Guide (Mental health, human rights and legislation: guidance and practice)**

*Trauma.* We commend the WHO's Mental health, human rights and legislation guide for recognising the importance of trauma-informed mental health care; however, we urge the WHO to explicitly address the specific needs of females in such care. Women and girls, particularly survivors of male sexual violence, require specialised support to ensure their safety and well-being in environments such as rape crisis centres, prisons, and shelters.

Recognising these distinct needs in order to strengthen trauma-informed care for women may require legal reforms in some countries, including Australia, to ensure the legality of single-sex services, especially given recent court and administrative decisions that have raised concerns in this regard.

*Mothers.* While the WHO's Mental health, human rights and legislation guide provides valuable frameworks for rights-based mental health care, it lacks specific emphasis on the mental health needs of mothers, particularly regarding perinatal mental health. Given that nearly 1 in 5 women experience mental health challenges during or after pregnancy,<sup>8</sup> the guide should more explicitly promote the integration of perinatal mental health screening and care into maternal health services; however, recognising that not all countries have the resources to implement comprehensive maternal mental health systems or extended paid maternity leave, it is essential that the guide advocates for practical, scalable reforms. These could include policies that encourage flexible working conditions, as well as protections that allow mothers adequate time for breastfeeding and infant care.

In light of this, the WHO guide should also emphasise the legal requirement outlined in the Convention on the Rights of the Child (CRC) that mandates that parents and children should not be separated, except in rare and extreme circumstances where the child's well-being is at risk. Separation from their children can have a profound impact on the mental health of mothers, particularly in cases of detention. It is essential for jurisdictions to establish provisions that accommodate children where their mothers are detained, ensuring that the emotional and psychological well-being of both the mother and child are prioritised.

The guide should also endorse legislation to outlaw commercial surrogacy, which exploits economically vulnerable women and poses significant mental and physical risks. While resources may vary across countries, ensuring basic protections for women through the prohibition of commercial surrogacy is a critical step towards safeguarding maternal rights.

*Social media and pornography.* We urge the WHO guide to address the specific mental health challenges facing women and girls in relation to eating disorders, such as anorexia nervosa, which are among the most lethal mental health conditions impacting girls in Australia, and increasingly in Asia.<sup>9</sup> Pornography is also a significant contributor to girls' mental distress and validates male violence against women and girls and presents this violence as pleasurable to females.

The guide could usefully highlight the detrimental role that social media and pornography<sup>10</sup> play in normalising unhealthy body image standards, contributing to eating disorders, suicidal ideation, and gender dysphoria among young girls. It should advocate for legislation

<sup>8</sup> [Perinatal mental health](#), NHS England.

<sup>9</sup> [Eating Disorders Victoria](#), University of Sydney.

<sup>10</sup> [A new flight from womanhood? The importance of working through experiences related to exposure to pornographic content in girls affected by gender dysphoria](#), Journal of Sex & Marital Therapy, November 2023.

requiring social media platforms to disclose how their algorithms promote content related to these issues to assist regulators and the public to better understand and address the amplification of harmful content. This should not, however, serve as a pretext for internet censorship, which can also harm vulnerable girls and women by limiting access to information and debate.

*Sex discrimination.* We urge the WHO to ensure that sex discrimination is addressed appropriately in the guide and other UN documents and avoid any suggestion that discrimination against women and girls is on the basis of their ‘gender identity.’ (The guide at p. 33 illustrates this mischaracterisation.) It is essential to uphold the understanding that sex discrimination is fundamentally rooted in biological sex, which is a protected characteristic under international human rights law.

#### **(d) Suggestions of other policy tools for the implementation of a human rights perspective to the mental health – women and girls**

The UN must revitalise its efforts to eliminate harmful gender stereotypes that continue to impede women’s progress globally. Addressing these stereotypes is not only crucial for advancing gender equality, but it is also a legal obligation under international treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). These stereotypes perpetuate inequalities in education, employment, and health care, limiting women’s opportunities across our lives.

The WHO’s Mental health, human rights and legislation guide takes valuable steps by tackling gender stereotypes in acute medical settings, but this focus must be broadened to address how these harmful norms affect women throughout all stages of life. A decade ago, UN reports on the right to health highlighted the importance of dismantling gender norms to promote the highest attainable standard of physical and mental health for all;<sup>11</sup> however, this focus has since diminished. It is essential to re-engage with this agenda, ensuring that gender stereotypes are systematically challenged across all sectors of society and in all member states, both in the Global North and the Global South.

From the perspective of the Global North, the resurgence of outdated stereotypes through gender ideology – such as the idea that ‘wearing pants or liking football’ equates to masculine gender expression – is regressive and undermines efforts to promote true gender equality. These harmful stereotypes are reinforcing rigid ideas about gender roles rather than dismantling them, and their influence must be addressed in any framework that seeks to advance women’s rights.

We urge the UN OHCHR to lead by example in fostering respectful and constructive debate on sensitive and contested issues, particularly those surrounding women’s rights and gender identity. We are concerned that some UN agencies<sup>12</sup> have, at times, mischaracterised legitimate calls to safeguard women’s single-sex spaces as a form of ‘gender backlash’ or as being motivated by conservative, religious, or anti-trans sentiments. AAWAA does not oppose human rights for people identifying as transgender, but rather we advocate for a balanced, rights-based dialogue that carefully considers conflicting rights and mediates them in a fair and balanced manner, guided by the principles of proportionality and open dialogue.

#### **(e) Disaggregated data**

Rights-based mental health care for women and girls would be further secured if the WHO’s Mental health, human rights and legislation guide were to recommend the collection of accurate sex-disaggregated data in relation to who is accessing female-only services and spaces, and who is perpetrating violence against women and girls.

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<sup>11</sup> [Right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/70/213](#), Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, July 2015.

<sup>12</sup> [Countering the global gender backlash](#), OHCHR.

In many member states, including Australia, prohibitions on discrimination on the basis of gender identity have removed protections for the physical and psychological safety of women and girls who find themselves in need of rape counselling services and domestic violence shelters – and the data surrounding the use of such services according to sex is in question, due to sex self-identification (sex self-ID) legislation. Claims to a female gender identity under sex self-ID allow males to insist upon accessing female-only services, which challenges the capacity of rape crisis centres and refuge providers to provide trauma-sensitive care for female victims of male violence.

The situation for women in Australian prisons is similar, and we note the even fewer resources that these women have to exercise their rights. We urge that the guide acknowledge the reality that a high proportion of female prisoners are themselves victims of male sexual abuse and male violence and housing females separately to males is essential to prevent re-traumatisation as well as to minimise the risk of further abuse, noting recent research from the UK and Canada<sup>13</sup> that suggests that there are elevated rates of sexual violence among gender-diverse, male-bodied prisoners.

In regard to the collection of statistics as to who is committing this violence against women, we again point to the confusion caused by collecting statistics according to gender rather than sex: with males being able to ‘opt out’ of their sex-based crimes, data on male violence towards women and girls is being obscured and undermined.

We recommend the UN OHCHR urge member states to collect accurate sex-disaggregated data on current or potential users of mental health services, including community-based services and prisons, and to require member states to collect accurate sex-based data on the perpetrators of violence against women and girls.

We thank the UN OHCHR for this opportunity to comment, and we commend our concerns to your trust.

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<sup>13</sup> [Transgender women criminality shows male pattern](#), Fair Play For Women, December, 2012; [Gender diverse prisoners and sex-based patterns of offending](#), Macdonald-Laurier Institute, July 2023.