

YOUNG AUSTRALIANS in  
INTERNATIONAL AFFAIRS



# AUSTRALIA'S INTERNATIONAL LEGAL OBLIGATIONS TO ADDRESS GENDER-BASED VIOLENCE AGAINST WOMEN

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POLICY BRIEF - GENEVIEVE CURTIS

# EXECUTIVE SUMMARY

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As the Australian Government engages in the process of presenting its ninth periodic report to the Committee on the Elimination of Discrimination Against Women, it must acknowledge and work to address the epidemic of gender-based violence in Australia. As a State Party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Optional Protocol, Australia has obligations to prevent, investigate, punish and remedy acts of gender-based violence committed in public or private.

The effectiveness of current strategies must be carefully evaluated and altered to resolve this crisis and ensure that Australia meets its international obligations.

## BACKGROUND

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Australia is currently experiencing a surge in violence against women. In 2024, an average of almost one woman every four days is being killed in domestic violence incidents, an increase from the average of one woman a week in 2023 [1]. In response, a series of 17 rallies across Australia were organised and held in late April by advocacy group What Were You Wearing to call for action, including the declaration of a national emergency [2].

The term 'gender-based violence' encompasses a range of acts that "results in, or is likely to result in, physical, sexual or psychological harm or suffering ... including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life," [3] and disproportionately impacts women in Australia. While gender is its central driver, multiple aspects of an individual's identity may intersect in a manner that compounds their vulnerability to such violence and their experience as a victim-survivor.

Under international law, gender-based violence constitutes a violation of human rights [4].

This broad conceptualisation notably acknowledges the experiences of non-female victim-survivors. However, most multi-level discussions maintain a narrow focus on gender-based violence perpetrated by men against women. As a focal point for women's rights, it stands to reason that the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) should focus on the issue of gender-based violence as pertaining to women. In this context, there is a strong focus for Australia on the situation for women as the Government considers its obligations as a State Party.

While CEDAW does not explicitly reference gender-based violence, the issue features general recommendations made by the Committee that monitors the treaty's implementation [5]. General recommendations numbers 12 (1989), 19 (1992) and 35 (2017) elaborate on the obligations assumed under the Convention and outline its application to situations of gender-based violence against women, including the information which should be included in periodic reports. Australia will be required to present its next periodic report in 2024 [6], to outline the obstacles and progress toward meeting its obligations under the Convention.

## THE PROBLEM

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Concluding observations by the CEDAW Committee on Australia's eighth periodic report referenced concerns and recommendations to address the issue of gender-based violence against women [7]. In response, the upcoming ninth periodic report will likely highlight the introduction of the 2022-2032 National Action Plan to End Violence Against Women and Children and subsequent action plans which outline the Government's strategy to end gender-based violence in a single generation [8].

Other notable examples of progress which may be featured are the introduction of affirmative consent laws across most jurisdictions [9] supported by educational government campaigns to improve understanding of consent [10] and commitments to increase funding for measures to address gender-based violence [11]. Even so, the reality for women in Australia has not improved since the Committee raised its concerns in 2018.

The federal budget handed down on 15 May 2024 included a range of economic measures aimed at supporting women.

This included funding to support reviews and research into current prevention approaches and support for a range of services related to gender-based violence [12]. The Government's main highlight was its decision to allocate AUD\$925.2 million over 5 years to the Leaving Violence Program commencing from July 2025, to assist women escaping domestic violence.

While it is encouraging to see this assistance become permanent, a review into its pilot program found that only 36 per cent of applicants were deemed eligible and an even smaller portion actually received the full AUD\$5000 [13]. In addition, the budget has been criticised for not raising welfare payments [14] to improve economic security and recognise the influence that this would have on a person's capacity to leave violent situations [15]. These decisions directly impact Australia's ability to meet its CEDAW obligations.

In addition to the obligations under CEDAW, Australia is also party to the Optional Protocol to CEDAW which allows for individuals or groups of individuals to make complaints to the Committee regarding the failures of States parties to meet their obligations.

This function is primarily designed for use wherein all available domestic avenues for remedy have been exhausted. Complaints of failure to protect against gender-based violence have been the topic of communications reviewed by the committee.

Notably, the committee has stated in its findings that “the political will that is expressed in such specific legislation must be supported by all state actors” [16] meaning that the existence of policies is not sufficient if there is no effective implementation. While it is unlikely that such complaints will be made against Australia, it is worth being aware of this possibility noting that there have been instances where the Committee has provided views concerning communications made against Australia [17].

## POLICY RECOMMENDATIONS

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### **1** Address societal and normative drivers of violence

To fulfil its obligations under CEDAW, Australia must pursue positive measures to eliminate the prevalence of gender-based violence against women, giving consideration to CEDAW Committee recommendations. Both the Convention and Committee guidance place emphasis on addressing societal norms and attitudes that can incite and/or condone violent behaviour.

This is a necessary part of primary prevention but must be accompanied by practical, timely approaches to reducing violence to be most effective. Nordic data indicates that the idea that greater levels of gender equality will result in lower rates of gender-based violence against women may not be true [18]. This suggests that when developing policies, there is more to consider than just addressing harmful stereotypes.



## 2 Regulate the gambling industry

Policies intended to have an immediate or short-term impact should be underpinned by an understanding of the factors which can exacerbate violent behaviour. The normalisation and proliferation of gambling - particularly problem gambling - in Australian society have been identified as driving factors of domestic, family and sexual violence [19]. National efforts to curb addictive behaviour have been minimal and too slow to have any significant cultural or widespread behavioural impact.

Consequently, recommendations to address the issue have focused on implementing a full or partial ban on advertising. This could be effective, but only if implemented in conjunction with other measures to prevent gambling platforms from increasing inducements as an additional or alternative avenue to target and encourage consumers. For this reason, regulation of the industry needs to holistically address the ways in which gambling companies target consumers.

## **3** Strengthen knowledge and services

Future policies should also be shaped by a comprehensive understanding of the methods used to perpetrate violence. Some progress has already been made in identifying abusive behaviour in financial services but the impact has been limited while it is voluntary and non-uniform across the industry [20]. In addition, financial services in the public sector need to be reviewed to understand the ways in which systems and services such as child support and taxation systems are used to facilitate violence [21].

Similarly, the use of the legal system by perpetrators needs to be addressed in tandem with the current focus on improving funding to legal services. Strengthening public and private financial services policies to prevent their use in facilitating gender-based violence would lessen the impact and challenges faced by victim-survivors seeking remedy.

# CONCLUSION

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As an accountability mechanism, the periodic reports to the CEDAW Committee provide an opportunity for Australia to consider how it wants to be seen as responding to the national crisis of gender-based violence. While this is a complex and evolving issue, there is clear potential to take decisive action - to acknowledge its severity and urgency, address the root causes of violent behaviour and remove the methods by which violence is perpetrated.

## **AUTHOR BIOGRAPHY**

Genevieve Curtis has a Bachelors of International Studies from RMIT University and a Masters in International Law and Diplomacy from the ANU. She is interested in international security, international law and the intersection of these areas with gender issues.

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