

## Australia and Article 6 of CEDAW

### Background

The Convention for the Elimination of all forms of Discrimination Against Women (CEDAW) is an international treaty adopted by the UN in 1979. Australia ratified the convention in 1983. Article 18 of CEDAW requires states to submit an initial report on their progress towards eliminating discrimination against women, and then, every 4 years, a periodic report on progress since the previous report.

Each reporting cycle consists of 4 major elements: the state party report; a list of issues from CEDAW; state party reply to the list of issues; a CEDAW session at which state party representatives are able to make further comment and answer question after which CEDAW concluding observations are published. Shadow reports from NGO's etc can be submitted at any time after the state report.

### Article 6

Article 6 of CEDAW states the following:

*“States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”*

This brief report tracks Australia's comments regarding Article 6 of CEDAW, from the initial report submitted in 1986 through to the most recent report, the 8<sup>th</sup>, submitted in 2016.

### Australia's Reports

Dates of submission of Australia's reports:

- initial report 1986
- 2<sup>nd</sup> periodic report 1992
- 3<sup>rd</sup> periodic report 1996
- combined 4<sup>th</sup> and 5<sup>th</sup> periodic report 2004
- combined 6<sup>th</sup> and 7<sup>th</sup> periodic report 2009
- 8<sup>th</sup> periodic report 2016

The table below gives a summary of main themes relating to Article 6 in Australia's reports

Report	Date	Main focus of Australia's Article 6 comments
Initial	1986	Prostitution legislation in each state and territory; prostitution inquiries; rape reform law
2nd	1992	Update on prostitution laws; HIV/AIDS in context of prostitution; immigration of women to Australia to work in prostitution; Filipino 'mail order' brides
3rd	1996	Update on prostitution laws; child sexual exploitation by Australian men overseas; sex tourism; Filipino brides and domestic violence within these marriages
4 <sup>th</sup> /5 <sup>th</sup>	2004	Trafficking and the sexual slavery of women.
6 <sup>th</sup> /7 <sup>th</sup>	2009	Trafficking; sexual servitude
8th	2016	Trafficking; child, early and forced marriages; sexual servitude

## Details of each reporting cycle

**Initial Report(1986)** Click [here](#) to download the report.

This is the only report that actually gives the full text of Article 6 - “*States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.*”

The report comments that while prostitution is not illegal, certain prostitution related activities are. These are soliciting, living on the earnings of prostitution, ownership and management of brothels, exploitation and procuring.

The report devotes 7 pages to detailing the prostitution legislation in each state and territory around these four issues. It also gives brief background information on various inquiries into prostitution and changes to legislation. There is little mention of trafficking.

The report also discusses rape law reform making mention of South Australia's introduction of marital rape as a crime.

There is no list of issues, responses or concluding remarks available for this report.

**2<sup>nd</sup> Periodic Report (1992)** Click [here](#) to download the report.

The heading for Article 6 is 'Exploitation of and traffic in women'.

The opening paragraph is interesting as it states that many women enter prostitution by choice, while others do so because of economic disadvantage:

*'In Australia, as elsewhere, many women enter prostitution for complex reasons, which are primarily economic and are located within the overall context of gender inequality. Many appear to have made a considered, rational choice and seem unaffected by the work or the lifestyle it entails. Others feel that they have little choice and are forced into the work through economic necessity. Therefore, the lack of alternative well paid employment opportunities is seen to be a significant factor in perpetuating prostitution and the exploitation of women.'*

The report covers much of the same ground as the initial one, dealing with legislation in each state and moves towards decriminalisation. It also has a section on HIV/AIDS in the context of prostitution.

There is a detailed discussion of immigration to Australia by women to work in prostitution - '*Australian Immigration authorities in overseas embassies closely monitor applications for visitors' visas to ensure as far as possible that women travelling to Australia will not be drawn into prostitution.*' This section focuses specifically on the Philippines, and makes mention of the problem of Filipino 'mail-order' brides.

There is no list of issues, or responses and the concluding remarks make no reference to Article 6.

**3<sup>rd</sup> Periodic Report (1995)** Click [here](#) to download the report.

The heading for Article 6 is 'Exploitation and traffic in women'.

It begins with an update of various state prostitution legislation – namely NT, Queensland and ACT. The, under the heading of 'International Trafficking' there is a discussion of the sexual exploitation of children overseas by Australian men.

It flags legislation that would make it an offence to advertise tours to countries such as Thailand and the Philippines for the purpose of child sexual exploitation.

The next section has the heading 'Serial Sponsorship'. It deals with the problem of many Filipino women who come to Australia as fiancées or wives of Australian men. An interview process and data base was established to identify men who had previously sponsored spouses. The issue of domestic violence in these marriages was recognised and it became easier for the women in this situation to gain permanent residency.

There is no list of issues, or responses but the concluding remarks are available for this report. Click [here](#) to download the Committee's report – Australia begins on p 111.

The Committee was critical of the report in that it did not meet the guidelines for a CEDAW report and repeats much of the material in the previous report. It is interesting to note that this report was a mere 54 pages, compared with the 213 pages of the 2nd Periodic Report. The Committee praised Australia for it's prosecution of sex offender overseas, it's concerns about paedophilia, sex tourism and women brought to Australia as brides.

However, it made the following comment regarding prostitution: *'The Committee noted the differing state provisions in relation to prostitution and encouraged the Government to assess the effectiveness of the varying measures in reducing the exploitation of prostitution.'*

**Combined 4<sup>th</sup> and 5<sup>th</sup> Periodic Report (2004)** Click [here](#) to download the report.

Article 6 is headed 'Suppression of the Exploitation of Women'.

This report focuses almost exclusively on trafficking and sexual slavery of women, which it recognises as a form of violence against women. The emphasis is on sexual servitude and the recent initiative around this as well as child sexual exploitation. Australia's overseas aid programs specifically targeted these two areas. There is also a section on sexual assault.

The only mention of prostitution is the updating of information about the various state and territory legislations.

**The List of Issues** can be downloaded [here](#). Those relating to Article 6 are quoted in full:

***'Trafficking and exploitation of prostitution***

*In its previous concluding comments, the Committee noted the differing state provisions relating to prostitution and encouraged the Government to assess the effectiveness of varying measures in reducing the exploitation of prostitution (para. 403). Please provide information on whether this study has been undertaken and, if so, the outcome.*

*Please provide updated information on measures to reduce paedophilia and sex tourism involving Australia men, primarily in Asian countries, and the situation of women brought to Australia as brides.'*

**The Reply to the List of Issues** can be downloaded [here](#)

The reply to the issue of reducing the exploitation of prostitution was dismissed with the sentences *'This study has not been undertaken. The effectiveness of state and territory measures is a matter for the states and territories to evaluate.'*

The reply to the matters of sex tourism, paedophilia etc were more detailed, describing the various legislative measures in place.

**Concluding Observations** Click [here](#) to download this report.

The Committee's concerns regarding Article 6 are quoted in full:

*'The Committee is concerned about the lack of a comprehensive approach to combat trafficking and exploitation resulting from prostitution. It is particularly concerned about the absence of effective strategies and programmes to prevent women from entering into prostitution, address the demand for prostitution and support women who wish to discontinue their lives in prostitution. It is further concerned about the low rates of prosecutions and convictions of traffickers and the lack of support and protection offered to victims who do not cooperate in the investigation and prosecution of traffickers.'*

It recommended that Australia develop strategies to reduce the demand for prostitution, discourage women from entering prostitution and provide services for women wanting to exit.

**Combined 6<sup>th</sup> and 7<sup>th</sup> Periodic Report (2009)** Click [here](#) to download the report

Article 6 is headed 'Suppression of the exploitation of women' and is divided into three sections: trafficking, prostitution and sexual servitude.

The section on trafficking makes little mention of sex trafficking, but does make note of the involvement of Scarlet Alliance in aid projects in Asia. Much of this section is spent in addressing concerns raised through the concluding remarks on the previous report in relation to *'the low rates of prosecutions and convictions of traffickers and the lack of support and protection offered to victims who do not cooperate in the investigation and prosecution of traffickers.'*

By way of contrast, the next section, on prostitution makes no reference to the committee's concerns about *'the absence of effective strategies and programmes to prevent women from entering into prostitution, address the demand for prostitution and support women who wish to discontinue their lives in prostitution'*. The report makes the Australian government's position on prostitution very clear: *'The Australian Government believes that legalised brothel prostitution, or profiting from the use of prostitution of women in this way, does not of itself fall within the meaning of 'exploitation of prostitution'.*' It goes on to state that legalised and regulated brothel prostitution help to protect 'sex workers' from exploitation.

The section on sexual servitude makes reference to the Australian Crime Commission research showing that many foreign 'sex workers' in Australia are not trafficked and have conditions comparable to Australian 'sex workers'. It then outlines some legislative changes in various states around sexual servitude.

**The List of Issues** can be downloaded [here](#).

The committee requested more details about the number of cases of trafficking involving women and girls, and information about protections offered to women who are victims of trafficking. Australia's failure to address the issues raised in the previous concluding observations about demand etc.

*'In its previous concluding observations, the Committee recommended the development of strategies to discourage the demand for prostitution, prevent women from entering into prostitution and establish programmes of rehabilitation and support for women and girls who wish to leave prostitution. Please provide information of any comprehensive strategies and programmes adopted in this regard and results achieved through their implementation.'*

**The Reply to the List of Issues** can be downloaded [here](#)

The government gave very lengthy and detailed replies to the questions regarding trafficking especially in regard to support for victims of trafficking. However, in its response to the question of reducing demand for prostitution, preventing women from entering and supporting those wanting to leave, the government again reiterated its belief that legal brothel prostitution did not breach Article 6. It only considers that the 'exploitation of prostitution' exists if a woman is held in sexual servitude, or a child is involved. It makes mention of the NSW Health Dept's funding to the Sex Worker Outreach Program (a program that does not provide resources for women exiting), as well as Centrelink as the agency that 'assists people to become self sufficient' and that provides counselling and social work support.

**Concluding Observations** Click [here](#) to download this report

The committee commends Australia on the efforts it has made to combat human trafficking.

On the matter of prostitution, it has this to say:

*'The Committee notes the efforts made by the State party to regulate prostitution, but is concerned that these efforts do not aim to reduce demand for the services of women in prostitution and/or provide alternatives to women entering into prostitution.'*

*The Committee recommends that the State party adopt measures to discourage women and prevent girls from entering into prostitution. The Committee urges the State party to develop effective strategies and programmes to address the demand for prostitution and support women who wish to discontinue their lives in prostitution.'*

**8<sup>th</sup> Periodic Report (2016)** Click [here](#) to download the report.

Article 6 is headed 'Suppression of the exploitation of women'.

The report repeats the comments found in the previous 'reply to list of issues' that legalised 'sex work' does not breach Article 6, and that 'exploitation of prostitution' occurs only when there is lack of consent, or when children are involved. The report updates various legislations relating to trafficking and the protections for victims of trafficking.

The report recognises child, early and forced marriage as serious human rights abuse.

It is of concern that the language has now changed to refer to 'human trafficking' rather than 'sex trafficking' and the word 'women' only appears once in this section, in connection with a statistic.

**The List of Issues** can be downloaded [here](#).

Disappointingly, the List of Issues makes no reference to the fact that Australia has failed to address the issues of demand for prostitution, discouraging women from entering it or providing services for women wanting to leave that were raised by the Committee in relation to the previous two reports.

All the issues raised in this report were in relation to trafficking – the data about the victims of trafficking, the number of prosecutions and convictions for trafficking and any compensation schemes for victims.

**Reply to List of Issues** can be downloaded [here](#)

The shift to using ‘human trafficking’ rather than ‘sex trafficking’ makes it impossible to know how many of the 841 referrals mentioned below involve women who were sex trafficked.

*As Australia does not consider that legalised sex work is exploitation of prostitution unless circumstances arise where sex workers do not consent to engage in sex work or are minors, data for exploitation of prostitution is included in human trafficking data. Between 2004 and 30 June 2017, the Australian Federal Police specialist investigative teams received 841 referrals relating to human trafficking, slavery and slavery-related offences, including forced marriage.*

**Concluding Observations** – can be downloaded [here](#)

The committee expressed concern at the ‘*lack of gender perspective in the reports issued by the Interdepartmental Committee on Human Trafficking and Slavery*’ and recommended that Australia ‘*integrate the Office for Women in its Interdepartmental Committee on Human Trafficking and Slavery and ensure that it issues gender-sensitive recommendations*’.

The Committee was also concerned ‘*that the lack of harmonisation of state and territory legislation on women in prostitution impedes their access to healthcare, support and legal services, and employment. It is moreover concerned that the State party has not taken measures to address the demand for prostitution, to prevent women and girls from entering prostitution and support those who wish to exit prostitution.*’ It is encouraging to see this last sentence about reducing demand and discouraging women and girls from entering prostitution as this was not mentioned in the original list of issues.

**Australia’s 9<sup>th</sup> Periodic Report is due on 20 July 2022**