

Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences

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(Please use this reference in your reply)

14 October 2026

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolution 59/20.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the Crimes Amendment (Prohibiting Shackling During Childbirth) Bill 2026 and the Crimes Amendment (Prohibiting the Strip Searching of Children) Bill 2026.

I welcome these initiatives and wish to express support for their adoption as important measures to strengthen the protection of women and children deprived of liberty, advance Australia's implementation of its international human rights obligations, and respond to concerns identified by Australian inquiries, legal experts, national human rights advocates and United Nations human rights mechanisms.

On shackling women during childbirth

Australia has voluntarily assumed obligations under international human rights treaties directly relevant to the issues addressed by this legislation. Australia's obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), particularly articles 2, 12 and 16(1)(e), provide an additional basis for prohibiting this practice. Article 12 requires States parties to eliminate discrimination against women in health care and to ensure appropriate services in connection with pregnancy, confinement and the postnatal period. In this regard, the CEDAW Committee noted in its general recommendation 24, that "it is the duty of States parties to ensure women's right to safe motherhood and emergency obstetric services and they should allocate to these services the maximum extent of available resources". (Para. 27). The Recommendation further notes that: "Special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups, such as ...indigenous women, and women with physical or mental disabilities" (para. 6)

Read together with the obligation to eliminate discrimination and protect women's dignity, these provisions require Australia to ensure that women in prisons and custody settings receive safe, appropriate and non-discriminatory maternity care. The use of restraints that impede movement, compromise obstetric care or expose women to avoidable physical and psychological harms is incompatible with these obligations and may constitute discrimination and violence against women, depending on the circumstances.

Moreover, article 7 of the ICCPR prohibits torture and cruel, inhuman or degrading treatment or punishment. Article 10 requires that all persons deprived of liberty be treated with humanity and respect for their inherent dignity.¹ Similar obligations arise under CAT.²

The prohibition of shackling during childbirth reflects a clear and well-established international human rights standard. Rule 24 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules)³ provides that instruments of restraint shall never be used on women during labour, during birth, or immediately after birth. This prohibition recognizes the unique medical, physiological and psychological circumstances of childbirth and affirms the dignity and inherent worth of women deprived of their liberty. The prohibition is reinforced by the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), particularly rules 47-49 ensure that these standards are implemented through an unequivocal, legally enforceable prohibition applicable throughout the Commonwealth, States and territories. The use of restraints during labour is incompatible with the provision of safe and effective maternal healthcare. Childbirth is a delicate event that may require rapid movement, changes in position, emergency interventions, or urgent transfer for specialized care. Shackles can impede medical assessments and treatment, delay life-saving interventions, and interfere with a woman's dignity and ability to manage labour and delivery. As a result, restraints may increase health risks for both the mother and the newborn. In this respect, we wish to also recall articles 3, 19 and 37 of the Convention on the Rights of the Child (CRC) which require that the best interests of the child be a primary consideration, that children be protected from violence and that children deprived of liberty be treated with humanity and respect for dignity.⁴

Beyond their physical consequences, restraints during childbirth may cause profound psychological harm and violence.

Labour and delivery are inherently vulnerable and intensely personal experiences. Shackling women at such a moment can inflict humiliation, fear, anxiety and emotional distress, undermining their dignity and sense of autonomy.

The harmful impact of shackling is particularly acute for women in detention or custodial settings, many of whom have histories of domestic violence, sexual violence, coercive control, childhood abuse, trafficking, or other forms of gender-based violence. For these women, the experience of being physically restrained during labour may trigger traumatic memories and constitute a form of institutional re-traumatization. Rather than promoting security, the use of restraints in such circumstances can exacerbate psychological suffering and undermine trauma-informed approaches to detention and healthcare. These concerns are particularly significant for Aboriginal and

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- ¹ International Covenant on Civil and Political Rights (ICCPR), adopted 16 December 1966, arts. 7 and 10. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>
 - ² Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted 10 December 1984, articles 2, 11 and 16. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>
 - ³ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), adopted by the United Nations General Assembly, resolution 65/229, rule 24 https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf
 - ⁴ Convention on the Rights of the Child, adopted 20 November 1989, arts. 3, 19 and 37. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

Torres Strait Islander women who continue to experience disproportionate contact with criminal legal systems and the compounded effects of discrimination, over-policing and intergenerational trauma.⁵ The proposed legislation therefore represents an important gender-responsive safeguard.

International human rights mechanisms have repeatedly recognized that practices which subject detained persons to unnecessary pain, suffering, humiliation or degradation may amount to cruel, inhuman or degrading treatment. The prohibition of shackling during labour and childbirth reflects this broader principle. The Human Rights Committee has emphasized that persons deprived of their liberty must be treated with humanity and with respect for their inherent dignity under articles 7 and 10 of the International Covenant on Civil and Political Rights.⁶ The Committee against Torture has repeatedly expressed concern regarding the use of restraints on pregnant women in detention, particularly during labour and delivery, because of the physical and psychological suffering such practices may cause.⁷

I recall that the mandate has consistently identified the mistreatment of women during childbirth as a human rights concern requiring effective prevention and accountability. In her report on mistreatment and violence against women in reproductive health services, with a focus on childbirth and obstetric violence (A/74/137), the previous mandate-holder addressed the use of restraints on women deprived of their liberty during labour and childbirth as a form of mistreatment incompatible with their dignity and rights. I have further highlighted, in my report on violence against indigenous women and girls (A/HRC/50/26), how racism, discrimination and culturally inappropriate reproductive healthcare expose Indigenous women to particular forms of institutional violence.

My report on violence against mothers (A/HRC/62/49) likewise addresses the shackling of incarcerated women during pregnancy and labour and the intersecting discrimination experienced by mothers. Taken together, these findings underscore that shackling during labour, childbirth and the immediate postpartum period is unacceptable and must be prohibited, and that Australia must ensure that women deprived of liberty, particularly vulnerable women are protected from such practices through clear and enforceable safeguards, culturally safe maternity care, independent oversight and effective remedies.

The categorical prohibition contained in rule 24 of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) further reflects the international consensus that restraining women during labour, birth and the immediate post-partum period is incompatible with human dignity and appropriate medical care.

⁵ [Australian Law Reform Commission, *Pathways to Justice: Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* \(ALRC report No. 133, 2018\), ch. 11 \("Aboriginal and Torres Strait Islander Women"\)](#), paras. 11.1-11.4, [Australian Law Reform Commission, *Drivers of Incarceration for Aboriginal and Torres Strait Islander Women* \(2018\)](#), paras. 11.18-11.20.

⁶ International Covenant on Civil and Political Rights, 999 U.N.T.S. 171, arts. 7 and 10(1). See also Human Rights Committee, general comment No. 21: *Humane Treatment of Persons Deprived of Their Liberty* (art. 10), [HRI/GEN/1/Rev.9](#) (vol. I), 10 April 1992.

⁷ Committee against Torture, Concluding observations on the eighth periodic report of France, [CAT/C/FRA/CO/8](#) (22 May 2025); see also Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, arts. 1 and 16.

The absolute nature of rule 24 reflects the recognition that security concerns cannot justify the use of restraints during labour, childbirth and the immediate post-partum period. Women in labour are generally under medical supervision and present an exceptionally low flight or security risk. Consequently, international standards require States to ensure that childbirth takes place in conditions that respect women's dignity, bodily integrity and access to appropriate healthcare, free from the use of shackles or other instruments of restraint.

On strip-searching children

In addition to the obligation to prioritize the best interest of the child in all engagements affecting children, the prohibition of strip-searching children reflects established international child rights principles, including the rights to dignity, privacy, bodily integrity, protection from violence, and freedom from cruel, inhuman or degrading treatment. The Convention on the Rights of the Child requires that children deprived of their liberty be treated with humanity and respect for their inherent dignity and that their best interests be a primary consideration in all actions affecting them.⁸ The Committee on the Rights of the Child has emphasized that all measures within child justice systems must uphold children's dignity and physical and psychological integrity.⁹

Strip-searching constitutes one of the most intrusive forms of State interference with a child's physical and psychological safety and well-being as well as dignity and privacy. By requiring a child to remove some or all of their clothing for visual inspection of intimate parts of the body, strip-searches expose children to an acute power imbalance and a profound loss of personal control. Such procedures may be experienced as humiliating, degrading, intimidating and coercive, regardless of whether physical force is used. Human rights advocates and child rights experts have increasingly recognized that strip-searches can inflict significant psychological harm and may amount to a form of institutional trauma, particularly when conducted routinely or in circumstances where less intrusive alternatives are available.

The impacts may be particularly severe for girls. Research consistently demonstrates that girls in contact with youth justice and child protection systems have disproportionately high rates of previous exposure to sexual abuse, family violence, exploitation, coercive control and other forms of gender-based violence. For girls with such histories, being compelled to undress before authority figures, submit to visual inspection of intimate parts of their bodies, or perform degrading actions may replicate dynamics associated with earlier abuse and trigger feelings of fear, shame, helplessness and re-victimization. Strip-searches may therefore undermine recovery from trauma and exacerbate existing mental health vulnerabilities.

In this context, such practices may also be experienced as a continuation of state control over the child's body and autonomy.¹⁰ The potential harms may be especially

⁸ Convention on the Rights of the Child, adopted 20 November 1989, arts. 3, 16, 19, 37 and 40.

⁹ Committee on the Rights of the Child, *general comment No. 24 (2019) on Children's Rights in the Child Justice System*, [CRC/C/GC/24](#) (18 September 2019)

¹⁰ Human Rights Law Centre, Formerly Incarcerated Girls Justice Advocates Melbourne (FIGJAM) and Flat Out, *Ending Strip Searching in Australian Prisons* (2026), <https://www.hrlc.org.au/reports/end-strip-searching/>

acute for Aboriginal and Torres Strait Islander girls, who are disproportionately represented in youth detention and child protection systems and whose experiences may be shaped by the intergenerational impacts of colonization, family separation and systemic discrimination.¹¹

Research and experience from youth justice systems demonstrate that invasive search practices may lead to enduring psychological consequences and undermine trust in public institutions. Girls and Aboriginal and Torres Strait Islander children may be particularly vulnerable to these harms.¹² Legitimate security objectives must therefore be pursued through measures that are necessary, proportionate and the least intrusive means available.

Recognition of these harms has led growing numbers of child rights bodies, advocates and legislators to conclude that strip-searching children should be prohibited except, if at all, in the most exceptional and strictly necessary circumstances.¹³ Consistent with a child-rights-based and trauma-informed approach, any search of a child should be lawful, necessary, proportionate, individually justified and conducted by the least intrusive means available. Where alternative measures such as electronic scanning technology or other non-invasive screening methods can achieve legitimate security objectives, the use of strip-searches is difficult to reconcile with the child's rights to dignity, privacy and protection from psychological harm.

I note the findings of the Senate Legal and Constitutional Affairs Committee inquiry into Australia's youth justice and incarceration system, which recommended national minimum standards and strengthened youth justice reform.¹⁴ I further note the enduring relevance of the Royal Commission into Aboriginal Deaths in Custody, which issued 339 recommendations concerning the treatment of persons deprived of liberty, systemic discrimination, accountability mechanisms and overrepresentation of Aboriginal and Torres Strait Islander peoples within custodial settings.¹⁵

I also note constitutional advice commissioned by the National Aboriginal and Torres Strait Islander Legal Services and the Justice and Equity Centre indicating that the Commonwealth possesses legislative authority under the external affairs power to enact laws implementing Australia's international obligations concerning children and youth justice standards.

In light of the foregoing, I respectfully encourage the Government of Australia to support passage of both Bills, develop nationally applicable minimum standards governing the treatment of women and children deprived of liberty, implement

¹¹ Amnesty International Australia, *Submission: Prohibiting the Strip Searching of Children* (24 September 2026), <https://www.amnesty.org.au/submission-prohibiting-strip-searching-children/>

¹² Australian Law Reform Commission, *Pathways to Justice: Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples* (ALRC report No. 133, 2018), ch. 11, https://www.alrc.gov.au/wp-content/uploads/2019/08/fr133_11_aboriginal_and_torres_strait_islander_women.pdf

¹³ American Bar Association, *Preventing Strip Searches of Children and Youth: A Guide for Advocates* (2021) https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/materials/strip-search-tool-kit-national-edition.pdf

¹⁴ Senate Legal and Constitutional Affairs Committee inquiry into Australia's youth justice and incarceration system. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/YouthJustice2025/Report

¹⁵ Royal Commission into Aboriginal Deaths in Custody (1991). <https://www.naa.gov.au/explore-collection/first-australians/royal-commission-aboriginal-deaths-custody>

outstanding recommendations of the Royal Commission into Aboriginal Deaths in Custody, review relevant Commonwealth legislation to ensure full implementation of Australia's treaty obligations, and ensure all custodial policies are trauma-informed, gender-responsive, culturally appropriate and consistent with the rights and best interests of those affected.

In the spirit of cooperation and dialogue, and in line with the mandate entrusted to me by the Human Rights Council, I would be grateful for any information and comments your Excellency's Government may wish to provide. In particular:

1. Please provide any additional information and/or comment(s) you may have on the above analysis.
2. Please provide information on the current status of the relevant Bills, including any progress made towards their adoption, amendment or implementation.
3. Please provide information on the measures taken, or envisaged, to ensure that the relevant legislative and policy framework complies with applicable international human rights standards and obligations.
4. Please provide information on the laws, policies and procedures governing the use of restraints on women during pregnancy, labour and childbirth, including any safeguards and oversight mechanisms in place.
5. Please provide information on the legal and procedural safeguards regulating the search of children, including measures to ensure that such searches are conducted in a manner consistent with the rights and best interests of the child.
6. Please provide information on the steps taken to implement the recommendations arising from relevant inquiries and Royal Commissions, including any timelines, monitoring mechanisms and progress achieved to date.
7. Please provide any additional information that the Government considers relevant to the matters raised in the present communication.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Reem Alsalem

Special Rapporteur on violence against women and girls, its causes and consequences