

ODRI

Submitted by user: ODRI

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Name of organisation ODRI

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Question 1

To ensure the policy objectives of the reform of the Family Law Act 1975, ODRI recommends to include explicit references to non discrimination and equality, and relevant standards from constitutional, federal and international law relevant to the themes raised by these study. These references correspond fit adequately with the specific references to persons with disabilities, children, lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people, Aboriginal and Torres Strait Islander communities discussed by the 2018 Issues Paper. In that regard, it must be noted that family law must have an intersectional approach to family law and other policies at has been raised recently by the Committee of Rights with Disabilities: << 3. (...) Nevertheless, laws and regulatory frameworks often remain imperfect and incomplete or ineffective, or reflect an inadequate understanding of the human rights model of disability. Many national laws and policies perpetuate the exclusion and isolation of and discrimination and violence against persons with disabilities. They often lack a recognition of multiple and intersectional discrimination or discrimination by association; fail to acknowledge that the denial of reasonable accommodation constitutes discrimination; and lack effective mechanisms of legal redress and reparation. >> United Nations Committee on the Rights of Persons with Disabilities General Comment No. 6 - Article 5 : Equality and non-discrimination (Adopted 9 March 2018) <<19 (...) discrimination can be based on a single characteristic, such as disability or gender, or on multiple and/or intersecting characteristics. “Intersectional discrimination” occurs when a person with a disability or associated to disability suffers discrimination of any form on the basis of disability, combined with, colour, sex, language, religion, ethnic, gender or other status. Intersectional discrimination can appear as direct or indirect discrimination, denial of reasonable accommodation or harassment. For example, while the denial of access to general health-related information due to inaccessible format affects all persons on the basis of disability, the denial to a blind woman of access to family planning services restricts her rights based on the intersection of her gender and disability. In many cases, it is difficult to separate these grounds. States parties must address multiple and intersectional discrimination against persons with disabilities. “Multiple discrimination” according to the Committee is a situation where a person can experience discrimination on two or several grounds, in the sense that discrimination is compounded or aggravated. Intersectional discrimination refers to a situation where several grounds operate and interact with each other at the same time in such a way that they are inseparable and thereby expose relevant individuals to unique types of disadvantage and discrimination>> United Nations Committee on the Rights of Persons with Disabilities General Comment No. 6 - Article 5 : Equality and non-discrimination (Adopted 9 March 2018)

Question 2

Question 3

In relationship with family violence services, ODRI considers pertinent that the Australian Law Reform Commission addresses that indigenous girls and women experience intersecting forms of discrimination and the barriers related to the access to information and assistance, and the specific experiences that face indigenous girls and women. As has been raised by the

United Nations Committee on the Elimination of Racial Discrimination: "Indigenous women and girls face higher rates of domestic violence and abuse compared to non-indigenous women and constitute the fastest-growing prison population group across Australia." (United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the eighteenth to twentieth periodic reports of Australia *. 26 December 201, CERD/C/AUS/CO/18-20). ODRI recommends the Australian Law Reform Commission to consider safeguards to eradicate the intersecting forms of discrimination of Aboriginal and Torres Strait Islander people related to domestic violence, by addressing the motivations and consequences, to develop normative rules about the prevention and investigation of domestic violence, the punishment of the perpetrators and remedies for the victims or their families, taking into consideration the principle of cultural dialogue and mutual understanding. Moreover, ODRI recalls that United Nations Special Rapporteur on violence against women, its causes and consequences, following her mission to Australia in February 2017, recommended to adopt a specific national action plan on violence against indigenous women and on gender equality, supported with appropriate special measures that would accelerate the advancement of those women and girls. ODRI believes that the reforms of the Family Law System should address some of the concerns regarding violence against indigenous women, including the approval of educational measures and undertake data collection and monitoring of gender-based violence, with the participation of stakeholders including indigenous organizations and female leaders.

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The biggest concern regarding this issue lies in the lack of proper tools to address the matter. For instance, in order to improve law system for people with disabilities, in to have an interlocutor able to understand and correctly address the underlying concerning aspects; that is, to actually understands the needs of those who cannot express their voice or defend an argument properly. In that matter, ODRI recommends to train and prepare agents and officers who deal directly with cases of family violence and who, because of their positions, are decision makers and who also have the power to resolve favorably or unfavorably the cases in which they are involved. people with disabilities, so that they can count on the tools that allow the communication between both parties to be as equitable as possible and to understand the difficulties and barriers that shape the communication between the parties.

Question 8

Question 9

According to Australia's 2009 Census, around 31% of the country's population live in rural areas with different accessibility conditions such as geographical access, public services available, distance, population diversity and even sexual orientation, all of which may not be addressed properly in order to resolve this issue. In that matter, ODRI recommends to strengthen the existing services, where they are available, so that they have the necessary tools to work properly with the populations that, due to their characteristics, can not access these services adequately. In the case of areas that, by access or distance, do not have these services, it is proposed to create itinerant agents who may be able to identify cases of greater need and be able to control and monitor them, which should be reported to the competent entities, which would have first-hand information to help improve these situations.

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Question 15

In relationship with family violence services, ODRI considers pertinent that the Australian Law Reform Commission addresses that indigenous girls and women experience intersecting forms of discrimination and the barriers related to the access to information and assistance, and the specific experiences that face indigenous girls and women. As has been raised by the United Nations Committee on the Elimination of Racial Discrimination: "Indigenous women and girls face higher rates of domestic violence and abuse compared to non-indigenous women and constitute the fastest-growing prison population group across Australia." (United Nations Committee on the Elimination of Racial Discrimination. Concluding observations on the eighteenth to twentieth periodic reports of Australia *. 26 December 201, CERD/C/AUS/CO/18-20). ODRI recommends the Australian Law Reform Commission to consider safeguards to eradicate the intersecting forms of discrimination of Aboriginal and Torres Strait Islander people related to domestic violence, by addressing the motivations and consequences, to develop normative rules about the prevention and investigation of domestic violence, the punishment of the perpetrators and remedies for the victims or their families, taking into consideration the principle of cultural dialogue and mutual understanding. Moreover, ODRI recalls that United Nations Special Rapporteur on violence against women, its causes and consequences, following her mission to Australia in February 2017, recommended to adopt a specific national action plan on violence against indigenous women and on gender equality, supported with appropriate special measures that would accelerate the advancement of those women and girls. ODRI believes that the reforms of the Family Law System should address some of the concerns regarding violence against indigenous women, including the approval of educational measures and undertake data collection and monitoring of gender-based violence, with the participation of stakeholders including indigenous organizations and female leaders.

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ODRI welcomes the development of online dispute resolution processes. They could close the gap of accessibility related to family law services. Nevertheless, ODRI is suggest the development of safeguards that can provide statistics, disaggregated data, big data, but that also respect privacy concerns from third access parties or State officials. Moreover, ODRI believes that accesibility of online dispute resolution processes must adequate to the specific needs of persons with disabilities and the Aboriginal and Torres Strait Islander clients.

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Other comments?