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Australia's Fourth Universal Periodic Review

**Submission by
Australian Lawyers for Human Rights
Women and Girls' Rights Committee**

25 June 2025

1. About Australian Lawyers for Human Rights

- 1.1. Australian Lawyers for Human Rights (ALHR), established in 1993, is a national association of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR seeks to utilise its expertise in the principles and practice of international law and human rights law in Australia to: promote Federal and State laws across Australia that comply with the principles of international human rights law; engage with the United Nations in relation to Australian human rights violations; promote and support lawyers' practice of human rights law in Australia; and engage internationally to promote human rights and the rule of law.

2. Introduction

- 2.1. ALHR's Women and Girls' Rights Committee welcomes the opportunity to make this report on the human rights of women, girls and people of diverse genders in Australia. As contributors to the *Joint NGO Submission on behalf of the Australian NGO Coalition*, we endorse and encourage the Working Group to consider the recommendations in that report. We provide this report in order to emphasise some key areas of concern for the implementation of human rights.
- 2.2. Australia has made significant progress towards the implementation of women's and girls' human rights since its last UPR report. The 2025 Federal election returned a Parliament which is 49.1% female and the cabinet is 50% female. The Commonwealth is now using gender responsive budgeting and new Budget Process Operational Rules specify gender equality as a core budget and policy development objective.¹
- 2.3. The *Fair Work Act 2009* has been amended to include gender equality as one of the Act's aims, while the Fair Work Commission is now empowered to consider gender equality when setting pay rates and can make equal remuneration orders to ensure equal pay for work of equal value. In April 2025 the Fair Work Commission handed down provisional rulings covering five awards which determine the pay and conditions for early childhood workers and health professionals. These increased the base wages for those workers on the basis that work in these female-dominated industries had historically been undervalued.
- 2.4. Women's workforce participation in Australia has reached a record high of 63.5% in January 2025, up from 58.6% a decade earlier.²

¹ Department of Finance *Budget Process Operational Rules 2023* page 3, available from <https://www.finance.gov.au/government/federal-budget/budget-process>, accessed 12 June 2025.

² Australian Bureau of Statistics (January 2025), *Labour force, Australia*, ABS website, accessed 12 June 2025.

- 2.5. Coercive control has been criminalised in New South Wales³ and Queensland⁴ and other jurisdictions are considering similar legislation.
- 2.6. All Commonwealth and State education Ministers agreed to an Action Plan Addressing Gender-based Violence in Higher Education, which requires higher education providers to embed a whole-of-organisation approach to prevent and respond to gender-based violence, establishes a National Student Ombudsman and introduces a National Higher Education Code to Prevent and Respond to Gender-based Violence.
- 2.7. **Despite this progress, there are still areas where progress is slow or stalling.**
- 2.8. Australia's gender wage gap has declined only slightly from 14.2% (base wage) / 22.8% (total remuneration) in 2021 to 11.4% (base wage) / 21.1% (total remuneration) in 2024. Only 14% of paid primary carer's leave is taken by men⁵, as entrenched gender stereotypes mean men often feel unable to use their entitlements.⁶
- 2.9. The gains made in relation to gender equality in Australia have not necessarily been matched by shifts in gender norms and stereotypes, making Australia's progress fragile.

3. Sexual and Reproductive Health and Rights

- 3.1. UN treaty bodies charged with monitoring the implementation of core human rights treaties ratified by Australia have called on state parties to respect, protect and fulfil sexual and reproductive rights. The UN Committee on Economic, Social and Cultural Rights has recognised that the right to sexual and reproductive health is an integral part of the right to health and includes a set of rights and entitlements, including the right to make autonomous decisions concerning one's body and entitlement to unhindered access to health facilities, goods, services and information.⁷ These views have been echoed by the UN Committee on the Elimination of Discrimination against Women which has called on Australia to guarantee access to legal and prescribed abortion services and to raise awareness of sexual and

³ *Crimes Legislation Amendment (Coercive Control) Act 2022* (NSW)

⁴ *Criminal Law (Coercive Control and Affirmative Consent) and Other Legislation Amendment Act 2024* (Qld)

⁵ Workplace Gender Equality Agency *Gender Equality Scorecard 2022-23* Page 6 Available at <https://www.wgea.gov.au/publications/australias-gender-equality-scorecard> Accessed on 14 June 2025

⁶ Family Friendly Workplaces *National Working Families Report 2024* Available at <https://members.workfamilyhub.com.au/hubfs/National%20Working%20Families%20Report%20documents%202024/FFW%20National%20Working%20Families%20Report%202024.pdf> Accessed on 14 June 2025

⁷ Committee on Economic, Social and Cultural Rights, General Comment No. 22 on the Right to Sexual and Reproductive Health (Article 12 of the International Covenant on Economic, Social and Cultural Rights), UN Doc E/C.12/22 (2 May 2016) [1], [5].

reproductive health rights among women and girls, parents, teachers, medical professionals and the general public and create safe zones around abortion clinics.⁸

- 3.2. Australia has made progress in advancing sexual and reproductive health and rights and addressing gender bias in healthcare provision. All states and territories have decriminalised abortion and now allow abortion on request up to stipulated gestational periods. In the past decade, all states and territories have enacted legislation to facilitate safe and unencumbered access to abortion by prohibiting behaviour such as harassment, intimidation and access obstruction within a specified radius around clinics.
- 3.3. The Australian government has established a National Women's Health Advisory Committee, an Inquiry into universal access to reproductive healthcare and funding for a national sexual and reproductive health monitoring framework to inform policy and improve service-delivery. Significant advances have been made in securing access to sexual and reproductive healthcare include the subsidisation of some oral contraceptives, long-acting contraceptives and hormone therapies, relaxation of prescribing and dispensing requirements for medical abortion and establishment of new endometriosis and pelvic pain clinics.
- 3.4. **Nevertheless, access to sexual and reproductive healthcare remains a postcode lottery.**⁹
- 3.5. Abortion access is inaccessible in some parts of Australia and vulnerable to arbitrary decisions of public hospital boards.¹⁰ For many people, the only public hospital servicing their local catchment is a Catholic hospital. Catholic hospitals ascribe to a code of ethics under which contraception and abortion are impermissible, undermining access to reproductive healthcare.¹¹

⁸ Committee on the Elimination of Discrimination against Women, Concluding observations on the eighth periodic report of Australia, CEDAW/C/AUS/CO/8 (25 July 2018) [50(a)].

⁹ See Australian Lawyers for Human Rights submission to the Senate Standing Committee's Inquiry into Universal Access to Reproductive Healthcare December 2022 at <https://alhr.org.au/wp/wp-content/uploads/2023/02/20-12-22-ALHR-Submission-universal-access-to-reproductive-healthcareFF.docx-1.pdf> and Senate Community Affairs References Committee, *Ending the Postcode Lottery: Addressing Barriers to Sexual, Maternity and Reproductive Healthcare in Australia*, May 2023, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000075/toc_pdf/EndingthepostcodeLotteryAddressingbarrierstosexualmaternityandreproductivehealthcareinAustralia.pdf

¹⁰ See, eg, Lucy Barbour, 'Doctors Outraged by Abortion Ban at Orange Hospital take complaint to ICAC', ABC News, <https://www.abc.net.au/news/2025-01-20/doctors-complain-to-corruption-watchdog-over-abortion-ban/104820934>; Ri Liu et al, 'How hard is it to get an abortion in NSW? These maps show the 'deserts' for care in the state', Guardian Australia, 17 December 2024, <https://www.theguardian.com/australia-news/ng-interactive/2024/dec/16/how-hard-is-it-to-access-an-abortion-in-nsw-these-maps-show-the-deserts-for-care-in-the-state>

¹¹ See for example Annika Blau, 'In Good Faith', ABC RN Background Briefing (3 December 2022) <https://www.abc.net.au/news/2022-12-03/catholic-hospitals-denying-womens-healthcare-australia-hospitals/101712558>

- 3.6. While abortion is legal, providers are concentrated in metropolitan areas, making it difficult for women in regional areas to access timely and convenient care.
- 3.7. Efforts to undermine abortion access have intensified at the federal and state level.¹² For example,, a bill was introduced into the Senate in November 2022 replicating US model legislation and seeking to impose criminal penalties on healthcare providers who fail to provide the same level of healthcare to a child born alive following abortion as any other child born at the same gestational age. A Senate Inquiry into the Bill provided a vehicle for the spread of misinformation and on 20 August, a motion was put to the Australian Senate as a means of bringing the bill on for debate. The motion called for a vote accepting '[t]hat in the opinion of the Senate, the following is a matter of urgency: 'the need for the Senate to recognise that at least one baby is born alive every 7 days following a failed abortion and left to die, and that Australia's health care system is enabling these inhumane deaths, and for the Senate to condemn this practise noting that babies born alive as a result of a failed abortion deserve care.'¹³
- 3.8. Despite its defeat by a margin of 32 votes to 18, it is a matter of serious concern that a motion seeking to recognise misinformation as fact received 18 votes in Australia's Senate. False narratives of this nature continue to be propagated to foment moral panic and undermine healthcare access in the most challenging and complex of circumstances.
- 3.9. **Australia women and girls with a disability have been subjected to the non-consensual administration of contraceptives, and the performance of abortion and sterilisation without consent.**
- 3.10. The practices of sterilisation, abortion and administration of contraception without consent rob women and girls with disability of autonomy and violate their human rights.
- 3.11. UN treaty bodies have repeatedly called on Australia to introduce national uniform legislation to ensure that the use of sterilisation, abortion and the administration of contraception can only be carried out with prior, free and fully informed consent.¹⁴ Recommendations have also called on Australia to take immediate steps to replace substitute decision-making with supported decision-making and repeal all legislation that

¹² See, eg, Sophie Holder, South Australian upper house narrowly votes down late-term abortion law amendments, with controversy between MPs, ABC News, 17 October 2024, <https://www.abc.net.au/news/2024-10-17/abortion-legislation-vote-south-australia/104477762>

¹³ Senate Hansard, MATTERS OF URGENCY-Termination of Pregnancy, Sen Ralph Babet, 20 August 2024 https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansards/28059/&sid=0175

¹⁴ Committee on the Elimination of Discrimination Against Women, *Concluding Observations: Australia*, UN Doc CEDAW/C/AUS/CO/7 (30 July 2010) [42]. See also Committee on the Rights of the Child, *Concluding Observations: Australia*, 60th sess, UN Doc CRC/C/AUS/CO/4 (28 August 2012) [57]; Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Initial Report of Australia*, 10th sess, UN Doc CRPD/C/AUS/CO/1 (21 October 2013) [39], [40].

authorises medical intervention without the free and informed consent of the persons with disabilities concerned.

- 3.12. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability recommended¹⁵ that all jurisdictions amend or enact legislation prohibiting non-therapeutic procedures resulting in permanent sterilisation of people with disability, except where: there is a threat to the life of the person were the procedure not performed or the person with disability is an adult and has given voluntary and informed consent.
- 3.13. **ALHR stresses that these recommendations should be adopted as a matter of urgency.**
- 3.14. **In the absence of a federal Human Rights Act that enshrines the right to health and access to healthcare services without discrimination in accordance with ICESCR and CEDAW, sexual and reproductive health and rights will remain vulnerable to politicisation.**¹⁶

4. Discrimination on the basis of religious belief

- 4.1. **There is a disturbing recent trend in Australia to use a partial version of the right to freedom of thought, conscience and religion or belief as a justification for legalising discrimination against women, girls and gender diverse people.**
- 4.2. In 2021 the Commonwealth Government tabled the *Religious Discrimination Bill* 2021 which sought to override Commonwealth and State anti-discrimination legislation by protecting 'moderately expressed' religious views, even where those views would otherwise contravene anti-discrimination legislation. The provisions protecting expression of religious views prioritised the right to freedom of religion over women's right to live free from discrimination, with no provision made in the Bill for examining either the seriousness of the religious offence caused or the damage done to the woman. The Bill has since lapsed.
- 4.3. **Australia's anti-discrimination laws pose significant risks for women, girls and gender diverse people in some areas.** For example, state discrimination laws (NT and QLD) are under scrutiny, with certain rights and protections provided such as to gender diverse people against discrimination in employment and education in faith based organisations at risk of being wound back.

¹⁵ See

<https://disability.royalcommission.gov.au/publications/final-report#:~:text=The%20Royal%20Commission%20has%20made,%2C%20abuse%2C%20neglect%20and%20exploitation.>

¹⁶ See, eg, Tania Penovic, 'The fall of *Roe v Wade*, the US anti-abortion movement and its influence in Australia' 2022 47(4) *Alternative Law Journal* 253-260.

- 4.4. **Under the *Sex Discrimination Act 1984 (Cth)* discrimination is permitted against students and staff in religious educational institutions on the basis of gender, sexual orientation, marital status, and pregnancy.** These exemptions contravene Australia's obligations under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child.
- 4.5. **Section 38 of the *Sex Discrimination Act 1984 (Cth)* (SDA) and sections 153, 195, 351, and 772 of the *Fair Work Act 2009 (Cth)* (FWA) grant religious educational institutions broad exemptions from anti-discrimination laws.** These provisions allow such institutions to:
- 4.5.1. Refuse to hire, dismiss, or otherwise discriminate against staff based on their sexual orientation, gender identity, pregnancy, or marital status;
 - 4.5.2. Expel, refuse to enrol, or otherwise treat students unfavourably on the same grounds.
- 4.6. Religious educational institutions are a significant component of Australia's education system. There are approximately 2,900 Catholic and independent schools in Australia, educating over 1.4 million students and employing more than 200,000 staff.¹⁷
- 4.7. In 2022, the Australian Law Reform Commission reviewed¹⁸ these exemptions and recommended the repeal of section 38 of the SDA and the amendment of the FWA to prohibit discrimination on the basis of gender, sexual orientation, pregnancy, or marital status. Under the recommended changes, religious schools would be permitted to preference staff of their faith only where it is a genuine occupational requirement and protection against discrimination would be extended to people discriminated against due to the protected attributes of a close associate, such as a family member. To date, these recommendations have not been implemented.

¹⁷ Equality Australia *Dismissed, Denied and Demeaned: A national report on LGBTQ+ discrimination in faith-based schools and organisations* March 2024 Available at <https://equalityaustralia.org.au/resources/dismissed-denied-and-demeaned-a-national-report-on-lgbt-q-discrimination-in-faith-based-schools-and-organisations/> Accessed on 14 June 2025

¹⁸ Australian Law Reform Commission *Maximising The Realisation Of Human Rights: Religious Educational Institutions And Anti-Discrimination Laws* ALRC Report 142, December 2023 www.alrc.gov.au/wp-content/uploads/2024/03/ALRC-ADL-Final-Report-142.pdf Accessed on 14 June 2025

5. Attacks on the Human Rights of Trans Women and Girls

- 5.1. In January 2025 the Queensland Government imposed an immediate pause on all gender-affirming care for minors, including puberty blockers and hormone treatments.¹⁹ This sweeping prohibition ignores established medical consensus, including guidelines by the Australian Standards of Care and Treatment Guidelines for trans and gender diverse children and adolescents.²⁰ This also disregards the autonomy and best interests of the child which is a fundamental principle enshrined in the Convention on the Rights of the Child (CRC), to which Australia is a party. This move may also violate the International Covenant on Civil and Political Rights (ICCPR), specifically Article 17 (the right to privacy) and Article 26 (equality before the law and equal protection without discrimination).
- 5.2. Legal recognition of gender identity remains inconsistent and exclusionary across different jurisdictions in Australia. In Western Australia trans people must undergo invasive surgery and other medical procedures before they are permitted to update their gender on their identity documents²¹, while in the Commonwealth, Northern Territory and South Australia some degree of clinical proof is necessary before a person can update their gender on their identity documents. In May 2024 Equality Australia²² conducted a survey of trans and gender diverse people in Australia and found that 1 in 3 trans and gender diverse people born in Australia could not change their gender on their birth certificate because they were unable to meet the legal requirements.²³
- 5.3. Furthermore, section 38 of the Sex Discrimination Act 1984 (Cth) allows religious educational institutions to discriminate against students and staff based on their gender identity, including trans and gender diverse people. This allows schools to expel students and fire teachers, contributing to unsafe and stressful learning and working environments. This is not in line with international human rights law and specifically likely breaches Article 13 of the ICCPR.
- 5.4. Australia must reinstate access to gender-affirming healthcare for minors based on clinical best practice and the best interests of the child, remove medical evidence requirements for legal gender recognition and repeal the discriminatory exemptions under the Sex Discrimination Act that permit discrimination against trans students and staff.

¹⁹<https://360info.org/fake-threats-how-trans-issues-become-a-weapon/#:~:text=Moral%20panic%20amplifies%2C%20distorts%20and,they%20are%20portrayed%20that%20way>.

²⁰ Australian Standards of Care and Treatment Guidelines for trans and gender diverse children and adolescents Version 1.3, page 17

²¹ Gender Reassignment Act 2000 (WA), ss 3 and 14 together with AB v Western Australia [2011] HCA 42;

²² Equality Australia is a national organisation in Australia dedicated to equality for LGBTIQ+ people.

²³ Equality Australia Submission to the Australian Human Rights Commission on Current and Emerging Threats to Trans and Gender Diverse Human Rights

6. Incarceration Rates

- 6.1. Women are now the fastest-growing group in Australian prisons.²⁴ The majority of female prisoners are mothers. Many have experience of mental illness, domestic violence, sexual and physical abuse, substance abuse and addiction, and homelessness.²⁵ For example, Western Australia has seen a 25% increase in female imprisonment rates between December 2022 and 2024.²⁶ A significant portion of women in prison are incarcerated for non-violent offenses, such as those related to drugs or property.
- 6.2. First Nations women are the fastest-growing group of people being sent to prison.²⁷ Indigenous women in Australia are imprisoned at more than 20 times the rate of non-Indigenous women. Given the high proportion of Indigenous women in prison who have children, there is a prospect of intergenerational trauma, and the risk exists for children of becoming institutionalised.²⁸

7. Age of Criminal Responsibility

- 7.1. At the last periodic review, there were multiple recommendations for Australia to raise the minimum age of criminal responsibility (MACR). The MACR in the majority of jurisdictions in Australia is 10.²⁹ This situation is seriously out of step with international practice, contrary to recommendations in Australia's last periodic review, the UNCRC's 2019 Concluding Observations to Australia, and the advice and advocacy of medical, legal and community-led expert organisations - all of which note that Australia should raise the MACR to at least 14. Aboriginal and Torres Strait Islander children are around 26 times more likely to be incarcerated than other children.³⁰ The majority of children imprisoned have at least

²⁴ Australian Bureau of Statistics, *Prisoners in Australia*, 19 December 2024 at <https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release>

²⁵ C Woods, 17 January 2023, *Women Prisoners*, Law Society Journal, <https://lsj.com.au/articles/women-in-prison/> which notes that approximately 98 per cent of incarcerated women have histories of victimisation and trauma, and close to 85 per cent have been the victims of violence. Disturbing, also, is the research that estimates between 40 and 73 per cent of female prisoners have acquired brain injuries.

²⁶ *Vicious cycle pushing more women into prison*, University of Western Australia, 25 May 2025 at <https://www.uwa.edu.au/news/article/2025/may/vicious-cycle-pushing-more-women-into-prison#:~:text=Rising%20rates,are%20for%20non%2Dviolent%20crimes.>

²⁷ *First Nations women are the fastest-growing group of people being sent to prison*, Brooke Fryer ABC News.

²⁸ C Woods, Op. Cit.

²⁹ The minimum age for Commonwealth offences and offences in Queensland, New South Wales, Tasmania and Western Australia is ten years of age. In the Northern Territory In the Northern Territory, the age of criminal responsibility was recently lowered back to 10 after having been raised to 12 in August 2023. In Victoria the *Youth Justice Bill 2024* will raise the minimum age of criminal responsibility from 10 to 12 years old, following the Victorian government walking back from its commitment to raise the age to 14. In the Australian Capital Territory the minimum age is 12 years old (moving to 14 years old on 1 July 2025);

³⁰ *The Overrepresentation Problem: First Nations Kids are 26 Times More Likely to be Incarcerated Than Their Classmates* (2022), Amnesty International.

one disability. In 2024 and 2025 Queensland has pursued retrogressive reforms aimed at youth crime, including an “Adult Time, Adult Crime” covering 33 offences. Under these laws, children as young as 10 face adult sentences, including the possibility of life imprisonment.³¹

8. Violence Against Women and Girls with Disability

8.1. Women and girls with a disability experience heightened levels of violence and discrimination in Australia. The Australian Law Reform Commission has found that 90% of women with an intellectual disability have experienced sexual abuse and 68% have experienced such abuse before the age of 18.³² 20% of women with a disability have reported a history of unwanted sex, compared with 8.2% of women without a disability.³³ In research from the Australian Institute of Family Studies, around one in three men aged 18 to 65 reported inflicting physical, emotional or sexual abuse on an intimate partner in their lifetime. The research indicated an estimated 120,000 men in Australia were using one of these forms of violence for the first time each year.³⁴ The real figures are likely to be higher, given the underreporting of violence and sexual abuse.

9. Recommendations

That Australia:

1. Immediately repeal exemptions for religious educational institutions in federal anti-discrimination law.
2. Ensure existing anti-discrimination laws are consistent with Australia’s obligations under the ICCPR, CRC, CEDAW and ICESCR.

<https://www.amnesty.org.au/overrepresentation-explainer-first-nations-kids-are-26-times-more-likely-to-be-incarcerated/>

³¹ Making Queensland Safer Bill 2024 (QLD); see also Adult Crime, Adult Time Laws, Youth Advocacy Centre: <https://yac.net.au/legal-info/adult-crime-adult-time-laws/>

³² Australian Law Reform Commission (ALRC) (2010) Family Violence — A National Legal Response. ALRC Final Report 114 <http://www.alrc.gov.au/publications/family-violence-national-legal-response-alrc-report-114>

³³ Dowse, L., Soldatic, K., Didi, A., Frohmader, C. and van Toorn, G. (2013) *Stop the Violence: Addressing Violence Against Women and Girls with Disabilities in Australia*, Background Paper, Women with Disabilities Australia cited in Frohmader, C., Dowse, L., and Didi, A. (2015) ‘Preventing Violence against Women and Girls with Disabilities: Integrating A Human Rights Perspective’. Women With Disabilities Australia (WWDA), Hobart, Tasmania. ISBN: 978-0-9585268-4-5, 14.

³⁴ O’Donnell, K., Woldegiorgis, M., Gasser, C., Scurrah, K., Andersson, C., McKay, H., Hegarty, K., Seidler, Z., & Martin, S. (2025). *The use of intimate partner violence among Australian men*. Insights #3, Chapter 1. Melbourne: Australian Institute of Family Studies. Available at <https://aifs.gov.au/tentomen/insights-report/use-intimate-partner-violence-among-australian-men> Accessed on 14 June 2025

3. Fully implement the Parliamentary Joint Committee on Human Rights' 2024 recommendations by enacting a federal Human Rights Act within two years,⁹ and use the National Cabinet model to advance Human Rights Acts in all states and territories;¹² that include:
 - a. protection of the right to freedom of thought, conscience and religion or belief in a manner which does not impair the enjoyment of the rights to equality and non-discrimination by women, girls and gender diverse people, and
 - b. enshrine the right to health and access to healthcare services in accordance with ICESCR and CEDAW.
4. Enact national legislation that explicitly prohibits discrimination on the basis of gender identity and expression across all areas of public life, including education, healthcare, employment, sport, and access to services.
5. Continue to advance sexual and reproductive health and counter discrimination and stereotyping in healthcare and prohibit non-therapeutic procedures resulting in permanent sterilisation of people with disability
6. Strengthen legal protections for trans children and young people, including access to gender-affirming healthcare without unnecessary barriers or judicial oversight.
7. Ensure meaningful consultation with trans communities in all policy development processes affecting their rights.
8. Support public education to build an understanding and acceptance of equal rights regardless of your gender, and sexual orientation.
9. Raise the age of criminal responsibility to at least 14 in all jurisdictions
10. Increase funding for programmes to reduce rates of female incarceration and for early intervention and prevention programs to identify youth at-risk children, provide them and their families with social and community support services before contact with the criminal justice system and implement non-carceral responses.

End submission

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