



Winner, National Human Rights Award 2001
Winner, National Violence Prevention Award 1999
Winner, Tasmanian Women's Safety Award 2008
Certificate of Merit, Australian Crime & Violence Prevention Awards 2008
Nominee, French Republic's Human Rights Prize 2003
Nominee, UN Millennium Peace Prize for Women 2000

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Attorney-Generals Department
Human Rights Division
Via email: crpdreport@ag.gov.au

September 3rd, 2009

Dear Colleague

Re: Initial Report under the Convention on the Rights of Persons with Disabilities

Thank you for your invitation to contribute *initial views* of Women With Disabilities Australia (WWDA) to the Government's preparations for its initial report under the *Convention on the Rights of Persons with Disabilities* (CRPD). As you would be aware, WWDA is the peak organisation for women with all types of disabilities in Australia, and is run by women with disabilities, for women with disabilities.

There are now more than 2 million women with disabilities living in Australia, making up 20.1% of the population of Australian women. Women with disabilities continue to be one of the most excluded, neglected and isolated groups in Australian society, experiencing widespread and serious violations of their human rights, as well as failures to promote and fulfil their rights. As a group, women with disabilities in Australia experience many of the now recognised markers of social exclusion - socioeconomic disadvantage, social isolation, multiple forms of discrimination, poor access to services, poor housing, inadequate health care, and denial of opportunities to contribute to and participate actively in society.

Compared to non-disabled women, women with disabilities in Australia:

- are less likely to be in paid work;
- are in the lowest income earning bracket;
- spend a greater proportion of their income on medical care and health related expenses;
- are less likely to receive appropriate health services;
- are substantially over represented in public housing and more likely to be institutionalised;
- are often forced to live in situations in which they experience, or are at risk of experiencing, violence, abuse and neglect;
- are more likely to be unlawfully sterilised;
- are more likely to face medical interventions to control their fertility;
- are more likely to be assaulted, raped and abused;
- are at particular risk of severe forms of intimate partner violence;
- are more likely to experience marriage breakdown and divorce;
- are less likely to have children;
- are more likely to be single parents.

(Sources: Barrett et al 2009; Barranti & Yuen 2008, Meekosha 2004, Beleza 2003, Malacredia 2009)

In the context of the Government's preparations for its initial report under the CRPD, WWDA is of the view that the following issues/matters should be considered for inclusion:

1. Consistent with Article 6 of the CRPD, the Government's initial report should clearly acknowledge that women with disabilities in Australia continue to be subject to multiple discriminations and violations of their fundamental human rights and freedoms.
2. Consistent with Article 6 of the CRPD, the Government's initial report should detail any specific measures undertaken by Government/s to ensure the full and equal enjoyment by women with disabilities of all human rights and fundamental freedoms.
3. **Forced sterilisation¹ of girls and women with disabilities** (CRPD Articles 15-17, 23, 25) - Despite the many international human rights treaties and instruments ratified by Australia, and despite strong condemnation of forced sterilisation from many sources including women's organisations, disability rights organisations and international and national human rights bodies² women and girls with disabilities in Australia still experience, and face a serious threat of forced sterilisation. The ongoing practice of forced sterilisation of women and girls with disabilities is in clear breach of a number of human rights treaties to which Australia is a party³, yet Australian legislation still fails to prohibit forced sterilisation of girls and women with disabilities. The Government's initial report should detail any specific measures undertaken to address the substance of the CRPD Articles noted in this paragraph.
4. **The right to reproductive freedom** (CRPD Articles 4-8, 12, 13, 16, 19, 23, 25) - In Australia, the denial of the right to reproductive freedom takes many forms for women with disabilities, including for example: coerced abortions, pressure to undergo tubal ligations and hysterectomies, and unlawful sterilisation; forced contraception through the use of menstrual suppressant drugs; systematic denial of appropriate reproductive health care and sexual health screening; limited contraceptive choices, including a focus on menstrual control; lack of, and difficulty in accessing sexuality and reproductive health information, services and support. Although the right to 'reproductive freedom' is clearly articulated in a number of international human rights instruments to which Australia is a signatory, for many women with disabilities in Australia, such fundamental human rights are not realisable. The Government's initial report should detail any specific measures undertaken to address the substance of the CRPD Articles noted in this paragraph.
5. **The right to found and maintain a family** (CRPD Articles 4-8, 12, 13, 16, 19, 23, 25) - In international human rights law, the family is recognised as the basic unit of society and as such is entitled to receive comprehensive protection and support. The denial of the right to found and maintain a family is a critical issue for women with disabilities in Australia, yet remains largely ignored in Government legislation, policy, research and services. Examples of the denial of women with disabilities' right to found and maintain a family include: the denial of rights to be a parent based solely on the fact of disability; removal of babies/children from women with intellectual disabilities, women with mental health illnesses and women with psychiatric disabilities; discriminatory attitudes and widely held prejudicial assumptions which question their ability and their right to experience parenthood; denial of, discrimination and inequitable access to, assisted reproductive technologies; invisibility in maternity, obstetric and related health care policies, programs and services, including poorly managed pregnancy and birth;

¹ Forced sterilisation refers to the performance of a procedure which results in sterilisation in the absence of the consent of the individual who undergoes the procedure. This is considered to have occurred if the procedure is carried out in circumstances other than where there is a serious threat to health or life.

² See for example: Committee on the Rights of the Child, General Comment No 9 (2006): *The Rights of Children with Disabilities*, UN Doc CRC/C/GC/9 (2007); Committee on the Rights of the Child, *Concluding Observations: Australia*, UN Doc CRC/C/15/Add.268 (2005) [46(e)]; Committee on Economic, Social and Cultural Rights (1994) *Persons with Disabilities*: CESCR General Comment 5 (31). Eleventh session, 1994.

³ See for example: CESCR Articles 10, 12; ICCPR Articles 7, 17, 23; CEDAW Articles 2, 12, 16; CRC Articles 2, 6, 12, 19, 23, 24, 36, 37; CAT Articles 2, 4, 14, 16; CRPD Articles 4:3, 6, 7, 8b, 12-17, 22, 23, 25, 26, 28

lack of appropriate, adapted equipment to help disabled women in their parenting; lack of financial support, coupled with the higher cost of parenting with a disability; lack of, and difficulty in accessing, appropriate parenting information, services and support. The Government's initial report should detail any specific measures undertaken to address the substance of the CRPD Articles noted in this paragraph.

6. **The right to freedom from exploitation, violence and abuse** (CRPD Articles 4, 6-8, 12-17, 22, 23, 25, 26, 28) - The nature of violence against women and girls with disabilities in Australia encompasses a wide range of injustices and maltreatment. They experience, and are greatly at risk of violence and abuse due to structural, cultural and contextual issues, including the entrenched social exclusion they experience. Issues of abuse, neglect, discrimination and omission often provide the conditions and contexts that deny women with disabilities their human rights and also lead to violence. Regrettably, in Australia violence against women and girls with disabilities continues in a culture of silence, denial and apathy. Compared to other women, women with disabilities:
- experience violence at higher rates and more frequently;
 - are at a significantly higher risk of violence;
 - have considerably fewer pathways to safety;
 - are at particular risk of severe forms of violence;
 - tend to be subjected to violence for significantly longer periods of time;
 - experience violence that is more diverse in nature; and,
 - experience violence at the hands of a greater number of perpetrators;
 - are not believed when they report experiences of violence;
 - are less likely to report experiences of violence⁴.

Despite these facts, in Australia, legislation, policy and services for women with disabilities experiencing, or at risk of experiencing violence, are limited at best and non-existent at worst. Successive Australian Governments have shown little interest in, and taken minimal action to address, any aspect of the 'epidemic' that is violence against women with disabilities. The Government's initial report should detail any specific measures undertaken to address the substance of the CRPD Articles noted in this paragraph.

7. **The right to work** (CRPD Article 27) - Like all members of the Australian community, women with disabilities have a fundamental right to employment. This right is enshrined in a number of international human rights conventions to which Australia is a party⁵. Yet in Australia, women with disabilities are less likely to be in paid work (or looking for work) than other women, men with disabilities or the population as a whole. In Australia, twenty-one per cent (21%) of men with disabilities are in full time employment compared to nine percent (9%) of women with disabilities. In any type of employment women with disabilities are more likely to be in low paid, part time, short term casual jobs. The Government's initial report should detail any specific measures undertaken to address the substance of the CRPD Articles noted in this paragraph.
8. **The right to an adequate standard of living, including adequate housing** (CRPD Articles 19, 28) - Women with disabilities throughout Australia bear a disproportionate burden of poverty and are recognised as amongst the poorest of all groups in society. The Disability Support Pension is inadequate to support women with disabilities and fails to take account of the non-optional, extra costs associated with disability. An adequate standard of living includes the right to adequate housing, which is universally viewed as one of the most basic human needs. Women with disabilities in Australia continue to experience serious violations of their right to adequate housing, as well as failures to promote and fulfil this most basic human right. Issues for women with disabilities include:

⁴ For a detailed analysis of the issue of violence against women with disabilities, go to: www.wvda.org.au/viol.htm

⁵ See: UDHR (Article 23), CDESCR (Articles 6-8), CEDAW (Article 11), ICERD (Article 5), CRC (Article 32), CRPD (Article 27)

- lack of affordable, safe, and secure housing;
- lack of low cost housing;
- severe lack of appropriately modified housing;
- lack of availability of housing which adheres to universal design principles;
- escalation in the cost of private rental;
- forced to live further away from services as a result of low income and high urban rental costs;
- discrimination in both the public and private rental markets;
- lack of supports available in the community;
- additional costs of disability, which compound lack of options in the housing market;
- higher risk of homelessness as a result of violence;
- ignored in homelessness and violence policy responses;
- lack of access to women's refuges and other crisis and post-crisis accommodation services.

The Government's initial report should detail any specific measures undertaken to address the substance of the CRPD Articles noted in this paragraph.

9. **The right to the enjoyment of the highest attainable standard of health** (CRPD Articles: 8b, 9, 15-17, 19, 20, 22, 25, 26, 28) - The right to health is dependent on, and contributes to, the realisation of many other human rights, including for example: the rights to food, to water, to an adequate standard of living, to adequate housing, to education, to work, to privacy, to access to information, to participation, and to freedom from discrimination. Women with disabilities in Australia not only represent one of the groups with the highest risk of poor health, but also experience socioeconomic disadvantage, social isolation, multiple forms of discrimination, poor access to services and inadequate health care. For many women with disabilities, the services and programs they require to realise their right to health are simply not available to them. For example, support for choices and services in menstrual management, contraception, abortion, sexual health management, pregnancy, birth, parenting and menopause remain inappropriate, absent or inaccessible. In many areas of Australia, breast and cervical cancer screening services are not available to women with disabilities, despite the fact that breast cancer is one of the most common cancers for females in Australia and one of the leading causes of death from cancer in females. The Government's initial report should detail any specific measures undertaken to address the substance of the CRPD Articles noted in this paragraph.
10. **Data, statistics & research** (CRPD Article 31) - Over the last decade, WWDA has found that one of the greatest difficulties in determining and substantiating the needs and human rights violations of women with disabilities is the acute lack of available gender and disability specific data in Australia - at all levels of Government and for any issue. There is also an alarming lack of Australian research on gender and disability issues, despite the multiple discriminations and human rights violations experienced by women and girls with disabilities in this country. This neglect in research of women with disabilities in Australia has been highlighted by the United Nations *Committee on the Elimination of All forms of Discrimination Against Women* (CEDAW) (2006). Data, research and information about women with disabilities is necessary to guide and inform policy, direct funding, and inform service development. It also enables the monitoring of equality of opportunity and progress towards the achievement of economic, social, political and cultural rights for women with disabilities. The lack of data, research and information about women with disabilities results in invisibility and marginalisation in society, which invariably leads to a critical lack of resources for this group. The Government's initial report should detail any specific measures undertaken to address the substance of the CRPD Articles noted in this paragraph.

The information provided in this brief Submission is by no means a complete or comprehensive analysis of the issues facing women with disabilities in Australia today. In this context, WWDA looks forward to further opportunities to provide input to the Australian Government's reporting processes

under the *Convention on the Rights of Persons with Disabilities* (CRPD), including opportunities to contribute further to the Government's draft report.

WWDA thanks the Australian Government for the opportunity to contribute our organisations initial views to the Government's preparations for its initial report under the *Convention on the Rights of Persons with Disabilities* (CRPD).

Yours Sincerely

A handwritten signature in black ink, appearing to read 'C. P. Frohmader', with a long horizontal line extending to the right.

Carolyn P Frohmader
Executive Director

References

Barranti, C. & Yuen, F. (2008) 2008) Intimate Partner Violence and Women with Disabilities: Toward Bringing Visibility to an Unrecognized Population. *Journal of Social Work in Disability & Rehabilitation*, Vol. 7, No. 2, pp. 115-130.

Barrett, K., O'Day, B., Roche, A. & Carlson, B. (2009) Intimate Partner Violence, Health Status, and Health Care Access Among Women With Disabilities. *Women's Health Issues*, Vol. 19, pp. 94-100.

Beleza, M. (2003) *Discrimination against women with disabilities*. Prepared for the Council of Europe. Accessed online February 2009 at: www.wwda.org.au/europedisc1.pdf

Malacredia, C. (2009) 2009) Performing motherhood in a disablist world: dilemmas of motherhood, femininity and disability. *International Journal of Qualitative Studies in Education*, Vol. 22, No. 1, pp. 99-117.

Meekosha, H. (2004) *Gender and disability*. Accessed February 2009 online at: www.wwda.org.au/meekoshagendis1.pdf