

Submission to the Review of the Disability Discrimination Act (Draft Report) Inquiry

Joint Submission from the Women with Disabilities Strategic Consumer Advocacy Project & Women's Health Victoria

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1. Background

The Women with Disabilities Strategic Consumer Advocacy Project is a partnership project between Women's Health Victoria and the Victorian Women with Disabilities Network. It is funded through the Innovation in Disability Services Advocacy Grants administered by the Victorian Government Department of Human Services.

The project objectives include:

- Identification of key issues affecting the health and well being of women in Victoria.
- Development of a model of advocacy to address the needs of women with disabilities.
- Facilitation of leadership and mentoring opportunities for women with disabilities through participation in advocacy, peer support and representation at all levels of government and community life.
- Development of partnerships that strengthen local and specialist advocacy provision in relation to issues affecting women with disabilities.

2. The need for a gendered approach

People with disabilities are not a homogenous group and the recognition of gender is a critical factor in any endeavour to understand and implement effective disability policy and legislation. Current research on disability fails to provide a gendered analysis of the issues and experiences of disability. In addition, very little of the disability data collected by the ABS (which is the principal source of population data for disability) is gender disaggregated. The limited statistical information that is available on gender and disability, is spread over a wide range of services and sources, and has not been collected together to present a cohesive picture of the status of women with disabilities.

Some relevant information on gender and disability has been brought together by Women with Disabilities Australia (WWDA). This peak organisation, representing the 1.8 million women with disabilities in Australia, has identified some of the social factors

that combine to contribute to the disadvantaged and marginalised position of women with disabilities'. These include:

Employment

- Women with disabilities are less likely to be in paid work than other women, men with disabilities or the population as a whole.
- Men with disabilities are almost twice as likely to have jobs than women with disabilities.
- Women with disabilities' participation rates in the labour market are lower than men with disabilities' participation rates across all disability levels and types.
- Women with disabilities are less likely to receive vocational rehabilitation or entry to labour market programs.

Earnings

- Women with disabilities earn less than their male counterparts.
- 51 % of women with a disability earn less than \$200 a week compared to 36% of men with a disability.
- Only 16% of women with a disability earn over \$400 per week, compared to 33% of men with a disability.

Education

- Women with disabilities are less likely than their male counterparts to receive a senior secondary and/or tertiary education.
- Only 16% of all women with disabilities are likely to have any secondary education compared to 28% of men with disabilities.

Housing

- Women with disabilities are substantially over represented in public housing, comprising over 40% of all persons in Australia aged 15-64 in this form of tenure.
- Women with disabilities pay the highest level of their gross income on housing, yet are in the lowest income-earning bracket.

Health

- Women with disabilities are less likely than women without disabilities to receive appropriate health services, particularly breast and cervical screening programs, bone density testing, menopause and incontinence management.

Violence

- Girls and women with disabilities are more likely to be unlawfully sterilised than their male counterparts.
- Regardless of age, race, ethnicity, sexual orientation or class, women with disabilities are assaulted, raped and abused at a rate of at least two times greater than non-disabled women.
- Women with disabilities are more likely to be institutionalised than their male counterparts. Women with disabilities are more likely to experience violence at work than other women, men with disabilities or the population as a whole.

¹ The Status of Women with Disabilities in Australia - A Snapshot": taken from There Is No Justice - Just Us! The Status of Women with Disabilities Australia, by Carolyn Frohmader for Women with Disabilities Australia (WWDA). June 2002

It can be seen from this brief sketch that the experiences of women with disabilities varies greatly from those of men and that the impact of discrimination presents a multiple disadvantage. However the DDA review makes scant reference to the differential effects of gender. Data included in Chapter 3 of the Review which is meant to "present a picture of people with disabilities in Australia" in order to provide the setting of the Act, offers no gendered data and the only sex disaggregated statistics included are in terms of age. As the principle legislation to protect people with disabilities from discrimination, we believe that the DDA has a responsibility promote a gendered understanding of disability discrimination in all aspect of policy and planning and to incorporate this understanding into the Act.

3. Positive Changes arising from the DDA Review

***"The Disability Discrimination Bill will be instrumental in continuing social change and will have far-reaching and long-awaited effects for people with disabilities. I do not believe there is any better example of social justice than this legislation"*²**

The DDA was enacted during a period of rapid social change and increased national and international action to promote human rights and equality for people with disabilities. Expectations in relation to achieving equality for people with disabilities were high. To a certain extent, the DDA contributed to increasing awareness regarding the rights of people with disabilities.

We welcome the Productivity Commission's Draft Report, Review of the Disability Discrimination Act 1992 and would like to commend it's recognition of the following issues:

Breadth of Inclusion

The DDA Review recognises that people with disabilities do not represent a homogenous group and that the Act "appears to have been more effective for people with mobility and sensory impairments than those with a mental illness, intellectual disability, acquired brain injury, multiple chemical sensitivity or chronic fatigue syndrome. It also appears to have been less effective for people with dual and multiple disabilities and those living in institutional accommodation" (Draft Finding 5.6, p. XLIV). The Review recognises that the potential effectiveness of the DDA is limited by the multiple disadvantages faced by some people with disabilities (p. 104).

Promoting community recognition and acceptance

The DDA review highlights the value of improving education and public awareness around disability issues, and makes reference to a need for greater availability of information, further research and links with other organisations (p. 143-166).

4. Work still to be done

While the Women with Disabilities Strategic Consumer Advocacy Project recognises the importance of the DDA, it also supports the view expressed by Senator Lees in

² Second reading speech for the Disability Discrimination Bill: Minister for Health, Housing and Community Services, the Hon. B. Howe, Australia, 1992a, p. 2751, quoted in Review of the Disability Discrimination Act 1992, Draft Report, Productivity Commission, p. 50

1992 that it "does not go far enough in protecting and advancing the rights of people with disabilities"³. In particular, we believe, in failing to incorporate a gendered perspective.

Objectives of the Act

The DDA seeks to eliminate disadvantage caused by discrimination "as far as possible". In addition, the Terms of Reference of the Review outline the need to account for the social impacts and equity considerations. Women with disabilities face more discrimination and disadvantage than men with disabilities. We believe that a gendered approach to the Act fails within the realm of the possible and the current failure of the Review to incorporate a gendered perspective renders unachievable the possibility of these aims being met.

Definition of Disability

The DDA Review acknowledges the importance of placing disability within a social context but considers *social* and medical definitions in opposition to each other, concluding that the use of a medical model to define disability "is appropriate" and that "a definition of disability based on the social model is not practical" (Draft Finding 9.2, p. 210). The issue of "practicality" is not clearly defined in the Review, and the logic of this argument is not clearly articulated. As demonstrated, a number of social factors play a significant role in the experience of disability and incorporating these into our understanding of discrimination against people with disabilities is critical.

Inclusion of Types of Disability

The Review suggests "whatever language or philosophical basis is used to describe the relevant attribute ... the DDA must include a definition ... so it can operate in a workable, practical manner". "Language and philosophical basis" are of secondary concern. We believe the consideration of language and philosophy is essential to the process of providing a gendered analysis which recognises and reflects the experiences of a significant group of people with disabilities - women. The social and systemic issues that disadvantage women with disabilities can only be effectively addressed when gender, which is a *social* construct, becomes a key consideration in data collection, research and policy development and implementation.

³ Senator M. Lees, Australia 1992c, p. 1316, quoted in Review of the Disability Discrimination Act 1992, Draft Report, Productivity Commission, p. 51