



## **Comment on:**

### **Productivity Commission Inquiry into Paid Maternity, Paternity and Parental Leave**

**May 2008**

#### **INTRODUCTION**

ACTCOSS acknowledges that Canberra is built on the traditional lands of the Ngunnawal people. We pay our respects to their elders and recognise the displacement and disadvantage they have suffered since European settlement. ACTCOSS celebrates the Ngunnawal's living culture and valuable contribution to the ACT community.

The ACT Council of Social Service Inc. (ACTCOSS) is the peak representative body for not-for-profit community organisations, people living with disadvantage, and low-income citizens of the Territory. ACTCOSS is a member of the nationwide COSS network, made up of each of the state Councils and the national body, the Australian Council of Social Service (ACOSS).

ACTCOSS' objectives are representation of people living with disadvantage, the promotion of equitable social policy, and the development of a dynamic, collaborative and sustainable community sector.

The membership of the Council includes the majority of community based service providers in the social welfare area, a range of community associations and networks, self-help and consumer groups and interested individuals.

ACTCOSS receives funding from the Community Services Program (CSP) which is funded by the ACT Government.

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ACTCOSS welcomes the opportunity to contribute to the discussion surrounding paid maternity or parental leave. ACTCOSS' interest in this inquiry concerns the consequences of paid leave for disadvantaged or low-income households in the ACT, particularly women experiencing disadvantage. We consider that access to paid maternity is an issue of women's rights: their right to work in paid employment on an equal status with men, and their right to health.

The comments that follow relate to a select number of issues raised in the Issues Paper surrounding the social and health benefits of paid maternity leave and the impact on disadvantaged ACT women.

### **Comparative disadvantage of women**

A recent study of low-income households in the ACT by NATSEM<sup>1</sup> found that 56% of households in the bottom income quintile in the ACT are headed by a female. This is consistent with other studies, which have found, for example, that of people living in poverty in the ACT, almost one-third live in a sole parent household, and of these 90% are headed by a female.<sup>2</sup>

Even where women are in the workforce, their vulnerability to poverty is readily understandable given that:

- They generally have an intermittent attachment to the workforce because of caring responsibilities;
- They generally earn lower wages than men;
- They have a higher rate of part-time and casual employment (in 2006, women in the ACT were twice as likely as men to be employed part-time);
- Female-dominated occupations tend to be lower paid and undervalued; and
- As a result of all of the above, they have less opportunity to build up assets such as superannuation.<sup>3</sup>

The average weekly fulltime earnings of ACT Women in 2003 was \$1170, \$202 more than for other Australian women, but \$213, or 15% less than for ACT males.<sup>4</sup>

One of the key reasons for women's comparatively low economic status is their role in childbirth and child care. Women's primary responsibility for raising children leads to economic disadvantage in several ways<sup>5</sup>:

- Women's work in the home is both unpaid and undervalued – once women become mothers, much of their time and energy is

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<sup>1</sup> NATSEM, *Characteristics of Low Income ACT Households*, 2007, 11.

<sup>2</sup> Chief Minister's Department, *A Social Overview of the ACT*, 2007, 10

<sup>3</sup> See Queensland Government Office for Women information paper, *Focus on Women* 8.

<sup>4</sup> ABS, *Australian Capital Territory at a Glance* 2007,

<sup>5</sup> Derived from Karen O'Connell, 'Beggaring Belief: Paid Maternity Leave, Human Rights and Women's Economic Advantage', *Human Rights Defender* 26, 2002.

- expended on caring work that may have personal and social value, but is unremunerated;
- Workplaces are structured around the life patterns of the traditional male worker who has not had primary responsibility for caring work, for example an inability to work long hours, weekends or to travel may lead women to leave employment, reduce hours or refuse promotion as it conflicts with their caring responsibilities;
- Women's role as mothers makes them particularly vulnerable to workplace discrimination and its economic consequences. Evidence from the National Inquiry into Pregnancy and Work<sup>6</sup> noted that women who are pregnant and seeking to obtain employment suffer high levels of discrimination.

### **Inequity in availability of maternity leave**

Women's employment is particularly concentrated in sectors with high numbers of casual workers, lower pay and insufficient access to entitlements, including the hospitality and retail industries.

Paid maternity leave is less available in many of these smaller, more female dominated workplaces and to lower paid women. For example, up to 65% of managers and 54% of professional women have access to paid maternity leave, while only 18% of clerical, sales and service workers, 8% of women in the retail and hospitality industry and 0.4% of casual workers are entitled to it.<sup>7</sup> This uneven provision results in significant inequities between women, disadvantaging women in lower paid, feminised jobs and employment sectors. By persisting with industry provided paid maternity leave we are maintaining a social inequity for women and families, as only career women (primarily in full-time jobs and more likely to be high income earners) are presently able to enjoy income replacement when they stop work to give birth.

Casual workers and those on lower incomes are also less likely to be entitled to unpaid parental leave. Although casual workers employed on a regular or systematic basis over a continuous period of 12 months are entitled to 12 months unpaid leave, labour markets are far more volatile for workers on lower incomes. Over 20% of employees who were in low-paid jobs in September 1995 were unemployed two years later, compared with only 8.6% of higher wage earners.<sup>8</sup> Recent starters (those who had worked for an employer for less than a year) were also far less likely to have taken some leave or time away after the birth of their child than those who were long term workers. Recent starters were far less likely (16%) to have used paid leave for the birth than were long term workers (67%).<sup>9</sup>

<sup>6</sup> ABS, *Pregnancy and Employment Transitions*, 2005.

<sup>7</sup> Watts & Mitchell, 'Wages and Wage Determination in 2003' 46(2) *The Journal of Industrial Relations*, 2004,160.

<sup>8</sup> ABS, *Labour Market Outcomes of Low Paid Adult Workers: An Application Using the Survey of Employment and Unemployment Patterns*, 2000.

<sup>9</sup> ABS, *Pregnancy and Employment Transitions*, 2005.

## Health benefits

Paid maternity leave is also a health and wellbeing measure for Australian women and their babies. Many women are returning to work, even part-time, within a few months of the birth of their babies, however it is important that we enable them to stay home full-time for the first three months. The World Health Organisation (WHO) has noted that the;

Period of absence from work after birth is of utmost importance to the health of the mother and the infant. This is conducive to both the optimal growth of the infant and the bonding between mother and infant.<sup>10</sup>

Evidence also suggests infant health would be improved by mothers staying at home with their children in the first few months of infancy, as would breastfeeding rates, and infant development.<sup>11</sup> The Australian Government has recognised the importance of breastfeeding, stating:

[b]reastfeeding is one of the most important contributors to infant health. Breastfeeding provides a range of benefits for the infant's growth, immunity and development. In addition, breastfeeding improves maternal health and contributes economic benefits to the family, health care system and workplace.<sup>12</sup>

WHO considers that approximately 16 weeks absence from work after childbirth is necessary, at a minimum, to recover from childbirth and fully establish breastfeeding. Paid maternity leave can assist by ensuring that women are able to take an adequate recovery period out of the workforce following birth.

## International obligations and responses

Australia is currently one of only two OECD (Organisation for Economic Cooperation and Development) countries that do not guarantee women in paid employment a period of paid maternity leave.

The international community has long supported paid maternity leave as a way to address discrimination and the equal rights of women. In 2000 the International Labour Organisation (ILO) adopted the Maternity Protection Convention (which Australia has not ratified), providing that a woman will be entitled to a minimum of 14 weeks paid maternity leave. The Australian Government is signatory to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), which requires the Government to take appropriate measures to eliminate discrimination against women in employment and to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities.

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<sup>10</sup> World Health Organisation, *Health Aspects of Maternity Leave and Maternity Protection*, Statement to the International Labour Conference, June 2000.

<sup>11</sup> HREOC, *A Time to Value: Proposal for a National Paid Maternity Leave Scheme*, 2002, available at [http://hreoc.gov.au/sex\\_discrimination/paid\\_maternity/pml2/index.html](http://hreoc.gov.au/sex_discrimination/paid_maternity/pml2/index.html).

<sup>12</sup> Department of Health and Aged Care *National Breastfeeding Strategy Summary Report* Commonwealth of Australia Canberra, 2001, 2.

ACTCOSS is concerned that the Australian Government retains its reservation under CEDAW regarding the right of working women to access paid maternity leave (the right to paid maternity leave is contained in article 11(2)(b) of CEDAW). When Australia ratified CEDAW in 1983, it expressly refused to agree to provide paid maternity leave for Australian women and placed a reservation so that it would not be bound by article 11(2)(b).<sup>13</sup>

## **The model**

At a minimum, ACTCOSS supports a model entitling women to 14 weeks paid maternity leave, meeting the ILO's international minimum standard and allowing women a substantial financially secure period of time out of the workforce.

The payment would need to extend to independent contractors, the self-employed, casual employees and temporary workers, who comprise a large and growing proportion of the female workforce. This inclusive payment reflects the changing nature of the female labour force: to exclude casuals would disproportionately exclude lower income women.<sup>14</sup>

ACTCOSS is particularly concerned that the model adopted does not result in disincentives to employ women, which may arise if employers are required to directly fund maternity leave payments. As a result we urge that any model requiring employer contributions be based on total salaries of the organisation, rather than the individual salary of a woman employee.

## **Other considerations**

ACTCOSS acknowledges that the provision of paid maternity leave is not a solution to all the issues parents face in trying to balance work and family commitments, in particular those faced by single parents and unemployed women. All families face increased costs at the birth of a child, not just those in the workforce. We suggest there is a need for further consultation on ways to recognise and address the needs of these groups, through social support and other measures.

We also note the importance of allowing partners time to bond with newborn children and facilitating their balancing of work and family responsibilities. Currently a large number of partners are unable to, or choose not to, take a substantial period of leave following the birth. For the 384,000 partners surveyed by the ABS in 2005 who worked during their partner's pregnancy, 77% took some form of leave for the birth,

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<sup>13</sup> Human Rights and Equal Opportunity Commission, Media Release, *Government's commitment to improve protection for women's rights welcomed – but don't forget paid maternity leave*, 27 May 2008.

[http://www.hreoc.gov.au/about/media/media\\_releases/2008/62\\_08.html](http://www.hreoc.gov.au/about/media/media_releases/2008/62_08.html)

<sup>14</sup> Luke Raffin, 'Baby Steps in the Right Direction: Does the New Maternity Payment Realize the Aims of Paid Maternity Leave?' 18 *Australian Journal of Labour Law*, 2005, 270.

although for most of them (74%) the leave period was short (two weeks or less). Some form of paid leave was used during pregnancy by 206,000 partners (70% of those taking leave), with only 69,000 partners (23% of those taking leave) using paid paternity/parental leave.<sup>15</sup> It is also important that partners are not dissuaded from participating in family life by limiting paid parental leave to mothers only.

The priority should be the provision of paid maternity leave, reflecting the gendered reality of pregnancy and childbirth. Once such a scheme is introduced, however, the Government should look towards phasing in a more comprehensive scheme including paid paternity leave at the time of the birth, and an extended period of paid parental leave that could be taken at any time by the primary caregiver.

We also believe that the provision of paid maternity and parental leave is only one element of a comprehensive work and family strategy that needs to be developed by government. The OECD experience shows that adequate and affordable childcare provision, including out of school hours care, and social welfare provision that supports and extends women's choices around work and family also need to be fully integrated into federal and State government work/family policy and action. The problems in balancing work and family will necessarily involve wide-ranging programs and strategies to address the issues on a number of fronts.<sup>16</sup>

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<sup>15</sup> ABS, *Pregnancy and Employment Transitions*, 2005.

<sup>16</sup> ACTCOSS, *Submission to House of Representatives Standing Committee on Family and Human Service Inquiry into Work and Family Balance*, 2005.