

Women's Centre for Health Matters: Out of Reach – Women Living with Mental Health Issues in the ACT: What Hinders their Access to Legal Support

ACT Legislative Assembly Room, 21 June 2010

By Dr Helen Watchirs, ACT Human Rights and Discrimination Commissioner

Thank you Marcia for inviting me here today to launch this excellent Report. I would like to begin by acknowledge the traditional owners and custodians of the land on which we meet, the Ngunnawal people. I respect their continuing culture & the contribution they make to the life of this city & region, and pay my respects to their elders past & present.

Out of Reach Report

I would like to congratulate the Women's Centre for Health Matters (funded by ACT Health) for commissioning this research by authors Kate Rudd and Leigh Hale. It recommends that capacity be built in existing services to assist women with mental health issues, including community legal centres ('CLCs'), such as the Women's Legal Centre and the Disability Discrimination Legal Service at the Welfare Rights & Legal Centre – these specialist services are a 'special measure' to achieve equality under the *Discrimination Act*. The Report shines a light on the gaping need for more resources – the ACT Human Rights Commission made similar recommendations in our submission on the 5 year review of the *Human Rights Act 2004*, calling for better funding for CLCs for advocacy to promote and protect human rights, as well as simplifying remedies by treating civil human rights cases against public authorities like discrimination complaints, rather than requiring breaches of human rights (eg privacy, inhumane detention) by public authorities to be taken to the Supreme Court.

I fully support the suggestion to convene a Forum of government agencies & NGOs to discuss the Report and examine strategies to sensitise service providers to gender and mental health issues, as well as developing training packages for community legal centres. I agree with the 4 As approach: accessible, available, affordable & appropriate. The Human Rights Commission tries hard to make all four criteria, but it relies on CLCs to bring clients because of their closer links and trust built within the community. Of

course we attempt to accommodate the needs of disadvantaged clients and people with mental illness – I recall a conciliation session where we needed to take a break so the complainant could lie in the foetal position for a time in a private room because she was so distressed, and other times we have escorted clients to their doctors for treatment.

A particularly resonant part of the Report is the impact of cognitive impairment, which is in effect a form of indirect discrimination for people on the ground of disability. It makes legal and other problems much easier to give up on when you are treated without respect and dignity, ie lacking credibility, being rushed & stressed without fully understanding issues - it is a poor reflection on society when we don't have time to talk and listen, and help isolated women navigate an intimidating system based mainly on paperwork.

The NSW Public Interest Advocacy Centre's Mental Health Legal Services Project is a good model - it also had a Forum in January 2009 that led to Mental Health Legal Services Project Training Modules ('How to Sort Out Your Pre-Legal Problems' for clients and 'How to Work with Consumers' for lawyers), as well as two-year pilot projects with outreach staff that started in May 2009 at the Shopfront Youth Law Centre (social worker), Multicultural Disability Advocacy Association (lawyer) and NSW Service for Treatment and Rehabilitation of Torture and Trauma Survivors (lawyer). The ACT Mental Health Consumer Network has advocated for a Mental Health Legal & Advocacy Centre (modelled on Victoria) which is also supported by ACT Green's 5 *Point Action Plan: Closing the Gap in Unmet Legal Need*. I think bringing together these groups to discuss the best way forward is a good idea, and taking into account women's preference for services that are not stigmatising as highlighted by the ACT *Out of Reach Report*.

The World Health Organization *Fact Sheet on Gender & Women's Mental Health* states:

'Gender determines the differential power and control men and women have over the socioeconomic determinants of their mental health and lives, their social position, status and treatment in society and their susceptibility and exposure to specific mental health risks'.

Gender specific risk factors for depression and anxiety include domestic violence (including sexual abuse – contributing to high rate of Post-Traumatic Stress Disorder), socioeconomic disadvantage, low income and income inequality, low or subordinate social status and rank, and unremitting caring responsibilities. Worldwide depression is twice as common in women than men and more persistent, but anti-social personality disorder is three times higher for men than women (I expect a lot of depressed women may have these men as partners!). This Report documents the lived experience of women in the ACT, but goes further by giving us possible ways of moving forward.

Human Rights Commission work in detention facilities

The 2007 Human Rights Audit of Correctional Facilities referred to the urgent need to establish a forensic mental health unit, due to the lack of a therapeutic environment in Belconnen Remand Centre's D-Yard. Australia's 6/7th Report on Implementation of CEDAW (July 2008) sets out the need to improve our treatment of women in correctional facilities, and refers to the ACT Human Rights Audits. Due to overcrowding at the periodic detention on weekends, women were bussed between full-time remand facilities in Symonston and Belconnen. This practice stopped as it amounted to systemic sex discrimination, with women being subjected to more strip searches, had difficulty making appointments, with fewer visits (eg family) and work opportunities, and were required to clean out their cells when they relocated due to some weekend male detainees de-toxing there eg vomit and urine etc. The rate of health problems for NSW female prisoners (& the ACT should be similar) is:

- 86% had a psychiatric disorder (compared to 22% of general population);
- 55-65% have Hepatitis C (compared to 2% of the population);
- 74.5% are dependent on drugs or alcohol (self-medication).

The Human Rights Commission's *Review of the ACT Psychiatric Services Unit* led by Health Services Commissioner, Mary Durkin, tabled in early 2009 did not consider clinical decisions in individual cases, but it did consult widely, including consumers, carers and families. It recommended service improvements, which need to be built into new facility, including the following ones relevant to the *Out of Reach Report*:

- better responsiveness to requests and enquiries from consumers;
- further information on rights to consumers and carers/families;
- training for staff to use intrusive or invasive treatment only as a last resort; and
- better security and privacy for female consumers.

Women in the Workforce

In 1972 the Australian Conciliation and Arbitration Commission formally granted equal pay, but there is a persistent 17% national average gender pay gap (ACT is lower at about 10% in 2008). Our workforce is highly gender segmented, with women concentrated in 5 'C' industries/occupations – caring, clerical, cleaning, catering and cashiering (retail).

While Australia leads the world in levels of educational attainments for women - according to the World Economic Forum 2008 Gender Gap Index, we are 1st of 130 countries – (we spend annually about \$70 billion on education), this does not transfer into workforce participation (we are 40th in World Economic Forum Index, and 20th of 30 OECD countries) or pay equality. Only:

- 2% of business CEOs are women;
- 2% of the top ASX Companies Chairpersons are women;
- 20% of the Australian Public Service ('APS') Senior Executive Service are women, although 57% of the APS are women;

The Australia Institute's Report, *The Impact of the Recession on Women* shows it is disproportionate - women are the hidden under-employed (80%). There are many more women's human rights issues, including the glass ceiling in employment, the yawning gender pay gap with over-representation in casual part-time, low-skilled or low-valued caring, the feminisation of poverty, and women's insufficient superannuation.

The House of Representatives Standing Committee on Employment & Workplace Relations 2009 Report *Making it Fair: Pay Equity and Associated Issues Related to Increasing Participation of Women in Workforce* (popularly called 'Are We there Yet?') recommended wide-ranging reform:

- Amending the *Fair Work Act 2009* (which commenced on 1 July 2009), such as clearly defining what 'equal remuneration' means, and highlighting the object of

- achieving pay equity, as well as practical measures for achieving it eg establishing a Pay Equity Unit [it has an annual budget of about \$160m that HRCs dream of];
- Repealing the *Equal Opportunity for Women in the Workforce Act 1999* and replacing it with a Pay Equity Act; and
 - Increasing powers of Federal Sex Discrimination Commissioner to initiate complaints, reach settlements, issue compliance notices, require repeat offenders to attend counselling/training, and commence legal action for breaches of the Sex Discrimination Act;

Conclusion

Federal Sex Discrimination Commissioner Elizabeth Broderick describes her work as having a ‘lifecycle approach’ to addressing sex discrimination at three critical stages: education and entering the workforce; having children and caring for others; and retiring (‘accumulating poverty’) - these are also key stressor mental health events. Society needs to better utilise the skills of women, evaluate our approach to paid work and caring, and establish mechanisms to provide a secure economic future for ageing women. A good start has been the passage last week of legislation to establish a national paid parental leave scheme from 1 January 2011 paying the minimum wage (\$570 per week from 1 July 2010) for a maximum of 18 weeks, leaving only the USA as the last developed country not to have a national scheme. Addressing mental illness in a holistic, integrated and gender sensitive way is essential in its own right, but should have a positive impact on child protection, correctional and the criminal justice systems (both designed for males), where we are plugging fixes in the more expensive regimes too late.

A 1994 Victorian study of 200 women (a year after the national Burdekin Report) stated:
‘You need a place to go where you won’t be judged or labelled and where you can talk about what is really happening for you and not fear repercussions if people know how you really are’ [*Good Practices in Women’s Mental Health Training and Resource Kit*].

There is still a way to go in the ACT, but this *Out of Reach Report*, which I now formally launch, is a great step forward.