



## Protecting and Promoting Women's Rights in Australia: A Seminar for Women's Rights Advocates

### EXERCISE 1

#### Background

Late last week, Jane Doe, a woman with a mild intellectual disability, approached you for assistance. Recently, Jane and her partner decided that they would like to have a child. However, when Jane told her family of the decision, they reacted angrily and told her that they would not let her have the child, as she was not capable of looking after it. Despite their objections, Jane continued to insist to her family that she wanted to have a child and gradually they began to oppose her decision less forcefully.

Shortly after, Jane went to see a physician so she could get advice about becoming pregnant. On her way there, a drunk driver swerved onto the wrong side of the road and struck Jane's car at high speed. Fortunately, Jane was wearing her seatbelt and so survived the crash. However she experienced dizziness and severe pain around her abdomen where the seatbelt had been.

Jane was rushed to a public hospital where doctors told her that she had ruptured her spleen and required immediate surgery. Concerned, Jane asked the doctor if the accident would affect her ability to become pregnant in the future.

Before performing surgery to repair the damage to Jane's spleen, Jane's family spoke to the doctor and requested that she sterilise Jane during the procedure. Concerned that Jane was not capable of providing full and informed consent due to her (mild) intellectual disability, the doctor acted on the request of her parents and performed the sterilisation.

Jane has come to you for help. Jane did not want the sterilisation and is very upset that she will not be able to have children in the future. Following sterilisation, she has begun to suffer depression and is feeling increasingly alienated from her partner. She has also not spoken to her family since the operation. Jane believes that, despite her (mild) intellectual disability, she was capable of making an informed decision not to be sterilised.

After speaking to Jane, you decide to undertake some research into the prevalence of forced/coerced sterilisation of women with disabilities and find that, while it is not common, there are ongoing examples of the practice occurring throughout Australia. You are concerned about the absence of adequate safeguards



to protect women with a disability against forced/coerced sterilisation and the Government's ongoing failure to address this issue despite significant lobbying from a variety of interest groups.

### **Task**

1. How would you use the Optional Protocol to CEDAW to obtain redress for the harm experienced by Jane and to encourage reform in Australia?
2. Using human rights, write a letter to your local newspaper highlighting the problem of forced/coerced sterilisation of women with a disability, your use of the Optional Protocol to CEDAW and urging the Government to take action to rectify the problem.

### **Time**

30 mins



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## EXERCISE 2

### Background

Routine strip searches are carried out in prisons in all Australian jurisdictions. Despite their prevalence, a growing body of evidence demonstrates that strip-searches in prisons are an ineffective and demoralising means to prevent contraband and illicit drugs from being brought into prisons. For example, 18,889 strip searches were carried out at the Dame Phyllis Frost Centre between 2001-2002 and just one item of contraband was found.<sup>1</sup> Further, evidence shows that subjecting women to strip searches can leave them feeling demoralised, humiliated and traumatised. These negative effects are often significantly exacerbated for women prisoners who previously experienced sexual abuse and assault as we know that alarmingly high numbers of women in prison have previously experienced sexual abuse and assault.

A recent pilot study conducted at the Dame Phyllis Frost Centre found that reducing the number of strip searches carried out on female inmates resulted in fewer behavioural incidents (such as self-harming) as well as fewer assaults on prisoners and staff members.<sup>2</sup> Also, a number of alternative search methods have been suggested that are less humiliating yet are just as, if not more, effective than strip searches in identifying contraband. For example, x-ray scanning machines can be much more effective at detecting contraband and better recognise and respect women's rights. Similarly, pat down searches and the use of prison overalls by inmates during contact visits are legitimate alternatives to strip searches. However, despite all of the evidence, prisons throughout Australia continue to carry out high numbers of routine strip searches of women.

### Task

1. How would you use the Optional Protocol to CEDAW to encourage changes to strip search practices in women's prisons throughout Australia?
2. The Victorian Women's Trust recently opened its new grants funding round. You decide to submit an application for funding to design, implement and run a comprehensive pilot program that focuses on the effect on women's health of using alternate search methods in prisons. You plan to use the

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<sup>1</sup> NGO Submission to the Human Rights Committee: Australia's Compliance with the International Covenant on Civil and Political Rights (September 2008), 107.

<sup>2</sup> McCulloch & George, *Naked Power: Strip Searching in Women's Prisons*, in Jude McCulloch and Phil Scraton (eds), *Violence and Incarceration*, Routledge: London (2009).



promoting law in the public interest

Queen Victoria Women's Centre



results of this study to lobby for changes to the strip search practices used by prisons throughout Australia.

Answer the following questions from the Trust's grant application form:

- Provide a sentence that conveys the essence of your project.
- What are the project's aims?
- Why is there a need for your project?

In answering, consider whether or not the use of human rights law could improve your application.

**Time**

30 mins



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### EXERCISE 3

#### Background

In 2006, the CEDAW Committee expressed its concern regarding the low rates of prosecutions and convictions of sexual violence in Australia and the failure to hold all perpetrators of gender-based violence against women, accountable for their actions. It stated:

18. While noting the efforts of the State party to address violence against women at all levels of authority, the Committee remains concerned about the continuing prevalence of violence against women, as well as by the low rates of reporting, prosecutions and convictions in sexual assault cases. ...

19. The Committee ... calls upon the State party to ensure that all violence against women is effectively prosecuted and adequately punished. ... It requests that the State party provide information in its next report on the number of cases of violence reported to the police and other relevant authorities, and on the number of convictions. ...

In your work as a community advocate, it has come to your attention that a number of sexual violence cases in Victoria are not being effectively investigated or prosecuted. You are concerned that the women involved in these cases are not receiving justice and that the failure to prosecute is leaving them vulnerable to further violence. You are also concerned about the culture of impunity that is fostered when cases of violence are not prosecuted and perpetrators of said violence are not adequately punished.

You decide that the Government needs to do more to ensure that sexual violence cases are effectively investigated and prosecuted, and that perpetrators are punished.

#### Task

1. How would you use the Optional Protocol to CEDAW to address this problem?
2. Using human rights law, prepare a one-page letter to a senior ranking Victorian police officer calling for the adoption of measures to ensure the effective investigation and prosecution of sexual violence cases.

#### Time

30 mins