

HOME TRUTHS

stop sexual assault & domestic violence
a national challenge

15 - 17 September 2004 Sheraton Towers Southgate Melbourne

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- A: Prisons the Perpetrators of Violence and Discrimination against Women
- B: Best Practice Activism
- C: Workshop
- D: Prisons systemically perpetrate violence, including sexual assault, against women in prison on a daily basis. The discrimination women experience is traumatizing, horrific and inhumane. As this violence continues there has been a National coalition to work together to stop the violence perpetrated against women prisoners and the discrimination they face daily. Queensland, Victoria, NSW have already lodged a human rights complaint against their governments. SA, NT, and WA are in the process of working with Sisters Inside to also lodge the same complaint.

The complaint lodged is directed to the government to urge them to conduct a broad based systemic review and issue a special report regarding the treatment of women prisoners within each State and Territory. The National Coalition is lobbying that the broad based systemic review is conducted, State by State, simultaneously to ensure political and media activity can be maximized throughout this campaign.

The facts associated with the sheer numbers of women serving terms of imprisonment, their demographics, particular those with respect to race and disability, present a prima facie case of discrimination. This complaint is made on the grounds that the manner in which women prisoners are treated is discriminatory, as it contravenes several of the prohibited grounds articulated not only in the *Anti Discrimination and Equal Opportunity Legislations* but also in other Federal discrimination legislation and Human Rights Conventions. We are concerned about the discrimination on the basis of sex that is faced by women throughout the system. In addition, we are very concerned about the discrimination on the basis of race that is the particular experience of Aboriginal and other racialised women, as well as discrimination on the basis of disability that is experienced by women prisoners with cognitive and mental disabilities.

Prior to women being criminalised by the 'justice' system, many women prisoners have experienced multiple disadvantages. Prior to incarceration, 98% of women prisoners had experienced physical abuse and 89% had experienced sexual abuse.

The overall health status of women in prison is of great concern. Indeed even the Department of Corrective Services itself admits: "Women

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prisoners are characterised by lower levels of general and functional health, especially for issues related to mental health.”

The criminalisation of women is strongly linked to other socio-economic disadvantages suffered acutely by women. If men are poor women are poorer, if men are marginalised women are more marginalised, if men are subjected to violence women are subjected to more violence.

Further the complaint takes a focus on the sexual assault experienced by women prisoners that is perpetrated by the State which is a highly effective way to control women, not because it keeps the drugs or contraband out of prison. The criminal character of strip searching which is conducted as mandatory is appreciated in the context of the law of assault. Any strip search is an unjustified assault on women prisoners by the state.

- E: Abstract: Prisons systemically perpetrate violence, including sexual assault, and discrimination against women in prison on a daily basis. The violence and discrimination women experience is traumatizing, horrific and inhumane. As this violence continues there has been a National coalition working together to stop the violence perpetrated against women prisoners and the discrimination they experience.

The workshop will roadmap how we have:

- Developed this complaint that has been and is being lodged in every State and Territory;
- Collaborated across the country to work towards the same outcome with women prisoners who are taking a fundamental active part of the process;
- Challenged prison systems and structures that are perpetrating violence against women prisoners in Australia;
- Generated energy across the country to stopping violence experienced by women prisoners; and
- Proven that activism can work towards stopping violence against women.

- F: Debbie Kilroy, BSocWk, Psychotherapist, LLB candidate, Order of Australia Medal, Director of Sisters Inside, a community organisation that advocates for the human rights of women in the Criminal Justice System.

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Debbie continues to be a strong activist, both nationally and internationally, on issues relating to the abolition of prison.

Amanda George is a Community Lawyer and academic who is a committed activist for women prisoners over the last 20 years. Amanda continues to be a leader in the field of agitating unjust practices and laws that are perpetrated against women within this country and internationally. She is an active prison abolitionist.

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On December 10th 2003, International Human Rights Day, Sisters Inside wrote to the Director General of the Department of Corrective Services (DCS) in Queensland to urge him to conduct a broad-based review and issue a special report regarding the treatment of women prisoners in Queensland.

This complaint was made on the grounds that the manner in which women prisoners are treated is discriminatory. It contravenes several of the prohibited grounds articulated in the Anti Discrimination Act 1991 and in Federal anti-discrimination legislation and Human Rights Conventions. Sisters Inside received a response from the department stating that there was no discrimination within one month of sending the letter. Sisters Inside does not accept this response and believes it to be based on a false premise.

Sisters Inside is concerned about systemic discrimination on the basis of sex that is faced by women throughout the criminal justice and prison systems. We are concerned about discrimination on the basis of race faced by Aboriginal women and other women marginalised by race. In addition we are concerned about discrimination on the basis of impairment that is experienced by women prisoners with cognitive, mental and physical disabilities.

In addition to the material supplied to the Department of Corrective Services on 10th December 2003, we referred the Department of Corrective Services to a number of additional government documents. These documents chronicle the nature and extent of the discrimination on the basis of sex, race, and disability.

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Furthermore, strip searching and the use of the crisis support unit are experienced in a discriminatory manner by women prisoners in Queensland.

The purpose of this submission is to request the Anti-Discrimination Commissioner to conduct an investigation under s.155(2)(b) of the Anti-Discrimination Act (ADA). Sisters Inside contends that there is systemic discrimination in the administration of women's prisons. Women prisoners experience direct and indirect discrimination on the grounds of sex, race, religion and impairment.

The key means of discrimination are

- The classifications system;
- The number of low security beds;
- Access to conditional and community release;
- Access to programs;
- Access to work;
- Strip searching.

Security Classification

Section 12 of the Corrective Services Act 2000 requires that every prisoner be assigned a security classification. The Corrective Services Act 2000 provides that security classifications apply equally to both men and women prisoners. However, Sisters Inside disputes the application of the security classification system for women in two ways. Firstly, whether women should be assigned a security classification at all; and, secondly, whether the current instruments that measure risk are valid for women prisoners.

The Department of Corrective Services assesses security classification on the basis of "risk" using the Offenders Risk Needs Inventory (ORNI). Women prisoners are particularly disadvantaged by a security classification system which relies on needs which are equated with risk factors. The process converts "disadvantage" or "needs" into "risk". Women prisoners are penalised for their social disadvantage. A woman with a high level of social disadvantage will therefore attract a higher security classification. The risk assessment tools and classification schemes that are used for women, particularly Aboriginal women, culturally and linguistically diverse women and women with disabilities, impose a white, middle-class, male-based and male-normed approach on women prisoners.

The security classification system results in Aboriginal women being disproportionately classified as maximum security for several reasons relating to

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the historical reality of colonial oppression and the current social and economic realities of Aboriginal disadvantage. In the case of Aboriginal people "individual" risk categories are not individual but reflect the experience of the entire Aboriginal population. The ORNI is highly discriminatory against Aboriginal women.

Women prisoners labelled with a mental disability are more likely to be classified as maximum-security prisoners. Conditions of isolation and lack of appropriate service underscores the harsh and discriminatory results of placing women with severe mental disabilities in maximum security.

Women prisoners who have a mental disability, who are in need of support due to self harming are confined in exactly the same way as women who are perceived as problems for prison discipline. Prison staff are not adequately trained and resources are not available to ensure proper treatment is available to women with mental health disabilities.

Number of Low Security Beds

A prisoner's security classification determines the type of prison in which the prisoner is incarcerated. The conditions of confinement of women prisoners are virtually the same regardless of their security classification as the majority of women are imprisoned in maximum-security prisons because there are too few low and open facilities. Sisters Inside asserts that the lack of low security facilities available for women prisoners constitutes sex discrimination.

Conditional and community release

Relative to men, women pose a lower risk to the safety of the community upon release. However, women are provided with far fewer opportunities for release into low security prisons, parole, and work release and/or home detention. In addition, Aboriginal women are granted conditional or community release at a slower rate, if at all.

Because of the tendency to give women with mental disabilities higher security classifications they are less likely to obtain conditional or community release. Furthermore, because women with mental disabilities require more support on release and support facilities are extremely limited they are less likely to obtain these types of release.

Access to programs

Women prisoners do not have adequate recreation or adequate programs, including educational and skill based. Ironically, women have been penalised for

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the fact that they constitute a small percentage of the State's prison population. The small numbers of women prisoners has been a justification for the failure to focus on the particular requirements of women prisoners. Correctional policies and practices applied to women are an adaptation of those considered appropriate for men - women are the correctional afterthought. It is clear that the programs provided to women prisoners are not comparable in quantity, quality, or variety to those provided to male prisoners.

Aboriginal women identified the need for Aboriginal run courses and programs that would prepare them for release as well as supporting them to cope with the day to day stress, boredom and loneliness of prison life.

Culturally and linguistically diverse (CALD) women found that, in general, contact with prison program staff was not easy. Prison management attempt to overcome language problems through the use of other women prisoners as interpreters is an inadequate strategy to deal with language barriers.

Access to Work Opportunities

In the Queensland prison system benefits are given to prisoners who do prison labour and sanctions are imposed on prisoners who do not. There are insufficient work opportunities for women in prison and women are given access to fewer of the benefits accruing from prison labour than men.

Strip Searching

Mandatory strip searching is experienced in a discriminatory manner by women prisoners. Women prisoners, as a group, have a higher incidence of previous history of sexual assault than the general community and they often experience strip searching as a new assault. There is no evidence that mandatory strip searching actually carries out its stated purpose, the prevention of contraband. Any strip search is an unjustified assault on women prisoners by the state.

Women prisoners, as a group, are systematically discriminated against by the state. Culturally and linguistically diverse women and women with disabilities are further discriminated against. Women prisoners are a particularly disadvantaged group. Women prisoners do not often come forward to raise complaints because they fear retribution. Women prisoners see discrimination as inevitable and something to be coped with and minimised.

Historically, prisons and what went on in prisons, were completely shielded from public scrutiny. For women prisoners, the ADCQ might be seen as simply another government body seeking information that will ultimately be turned against women prisoners in some pernicious way. Past inquiries, reviews and

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reports have repeatedly and consistently documented the abuses and mistreatment to which women prisoners have been and are subjected.

The ADCQ is presently finalising an inquiry into the conditions of women prisoners in Queensland, in order to remedy the discrimination, systemic discrimination and identified human rights violations that women prisoners face. This process is occurring in all States and Territories across the country.