



Catholic Social Services  
**Victoria**

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Senate Standing Committees on Community Affairs  
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Canberra ACT 2600

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Dear members,

Catholic Social Services Victoria is pleased to contribute to the Committee's Inquiry into the involuntary or coerced sterilisation of people with disabilities in Australia.

CSSV is a peak body for the many Catholic social service agencies that deliver a wide range of services in Victoria. Inspired by the life, death and teachings of Jesus Christ, we work with these member agencies to fulfil the gospel imperatives to stand with and serve the poor, disadvantaged and marginalised, and to work for a just, equitable and compassionate society. Further information about Catholic Social Services Victoria can be found on our website: [www.css.org.au](http://www.css.org.au)

Several of our member agencies provide care and support for people with a disability and their families, and we are in contact with a number of people whose family lives include experience of caring for family members with a disability. We recognise the complexity of the issues before the Committee, and the sometimes diverging views of those who have contributed to the inquiry.

The foundation of our response is the human rights of women and children and respect for the dignity of people with disabilities. The state has a responsibility to protect the basic human rights and dignity of all its citizens. The "involuntary or coerced sterilisations violate a range of human rights of women and girls with disability, including the right to be free from violence."<sup>1</sup>

The UN Convention on the Rights of Persons with Disabilities also requires that these rights need to be actively supported by Governments and societies - *"Countries that join in the Convention engage themselves to develop and carry out policies, laws and administrative measures for securing the rights recognized in the Convention and abolish laws, regulations, customs and practices that constitute discrimination"*<sup>2</sup>.

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<sup>1</sup> Australian Human Rights Commission, submission to Senate Committee, p7

<sup>2</sup> United Nations, Convention on the Rights of Persons with Disabilities, Article 4

Catholic Social Teaching is aligned with these international human rights instruments in the concern for the inherent dignity of all people. This is a fundamental tenet of Catholic Social Teaching, and from this it follows that *“Since persons with disabilities are subjects with all their rights, they are to be helped to participate in every dimension of family and social life at every level accessible to them and according to their possibilities.”*<sup>3</sup>

Both these sets of principles point to an outright ban of medical procedures done without the informed consent of the ‘patient’, where there is no urgent medical indication of the need for the procedure.

It is important that all efforts are made to prevent situations where such decisions are considered. It must be recognised that a person can be effectively coerced by a lack of support or education or possibly protection.

In particular

- There is need for education for carers, families and the community in general about the possibilities for people with disabilities to live full lives, enjoying the happiness and responsibilities of family and community life. Of course this must be backed by the funded and informal supports, and the social attitudes that will make this a reality.
- Need for supports and services re menstruation sexuality and relationships. The lack of education within schools and some families for people with disabilities (particularly those with intellectual disabilities) reflects the lack of thoughtful and accessible material.
- Need for support to families where parents have disabilities. Families facing difficulties in parenting for many different reasons are able to access (albeit limited) supports to ensure equality of life and opportunity for children. If such support was available more widely to families where a parent or parents have a disability which compromises their capacity to parent, it would benefit those families and possibly alleviate the fears of carers and extended families. Respite care and innovate programs such as family mentoring are an essential part of the service mix.
- In addition to the practical need for assistance, support to carers is essential so that they do not become isolated, and feel that they are ‘solely responsible’ for their family member.

Further research and reporting into the prevalence and long term effects of chemical and surgical sterilisation is required, so that the community and government is informed about this issue and able to make policy and programmatic responses as required. The sterilisation of people deemed unable to consent is an issue of gravity, and must be treated as such.

We are anecdotally aware of instances where the current requirements for consent are circumvented. We are of the opinion that this should continue to be illegal. These instances could be reduced by community education programs aimed at the medical profession and carers, so as to

- Support greater understanding of the rights of people with disabilities and their capacity to live full lives,

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<sup>3</sup> Pontifical Council for Justice and Peace, Compendium of the Social Doctrine of the Church, 2004, para 148, at [http://www.vatican.va/roman\\_curia/pontifical\\_councils/justpeace/documents/rc\\_pc\\_justpeace\\_doc\\_20060526\\_compendio-dott-soc\\_en.html](http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html)

- Create understanding of the illegality of forced or coerced sterilization,
- Foster understanding of the process for consent, including the basis for decision making.

Clear and transparent principles for decision making will assist all parties to understand why decisions are made.

Given the complexity of decision making which respects the rights and needs of all those involved in the care of women and children with intellectual disabilities and the person with a disability themselves, and given the degree of intrusion involved in forced sterilization, other options need to be explored. For example, Catholic Health Australia, in considering the situation of women without the capacity to consent to a procedure, and who are very vulnerable to sexual abuse, looks first to the responsibility of all carers to protect, and second to temporary measures to prevent pregnancy. "Caregivers have an obligation to take all reasonable care to protect people with intellectual disability from sexual assault. Only where this is genuinely impracticable may temporary measures to prevent conception be used....."<sup>4</sup> This approach may be one that should be considered by decision making bodies, where legitimate concerns are raised about vulnerability to abuse and resulting pregnancy.

We urge the Committee to bring to these issues the wisdom and authority needed to ensure the dignity of all Australians and create a clear framework for decision making in this country.

Yours sincerely

Denis Fitzgerald  
Executive Director

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<sup>4</sup> Catholic Healthcare Australia, *Code of Ethical Standards for Catholic Health and Aged Care Services*, p 37.