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**Abstract**

This is a transcript of a speech by Irene Moss, the Race Discrimination Commissioner for the Human Rights and Equal Opportunity Commission, at the first national conference on the impact of disability within ethnic communities in Australia. She discusses the under-utilisation of government services by people of non English speaking backgrounds (NESB) and mentions a census of disability services which revealed an under representation of people of NESB within all services. She also introduces the Disability Discrimination Act 1992 and welcomes the new Commissioner. **Keyword: Cross Cultural**

# Articles

## Double Disadvantage

**Irene Moss**

(Race Discrimination Commissioner, Human Rights Australia)

A paper presented at the First Ever National Conference on *'The Impact of Disability within Ethnic Communities in Australia: Meeting the Challenge'*. November 1992, Melbourne.

Thank you for inviting me to speak at the first ever national conference on the impact of disability within ethnic communities in Australia. It is a milestone: Another landmark on the long journey towards equality of treatment and equality of participation by both groups – people with disabilities, and ethnic communities.

It is the conjunction of these two groups which has given me the title for my speech: *'Double Disadvantage'*. I pay tribute to those who are in some way different. Some of these barriers are purposely erected, fuelled by prejudice, but many are simply the result of carelessness or thoughtlessness. A number of obstacles have come about because institutions such as the law, the medical system, and various bureaucracies, have not kept pace with our changing society. There still seem to be a lot of people – many, unfortunately, in positions of power and influence – who do not realise that Australian Society is not made up exclusively of white, monolingual, able-bodied men!

A conference such as this is one way of telling the world that we exist: Those of us who are not white, monolingual, able-bodied and male. It is an affirmation of our right to self-determination, to decide what is best for us. A conference is also an opportunity to pause for a moment, to assess what has been done, and to see where to go in the future.

It is ten years since the International Year of the Disabled People (IYDP), which is a good point from which to measure changes. IYDP marked the first public acknowledgment that people with disabilities had a rightful place in the community – that they should not be confined to home or to an institution. In the intervening decade, we have certainly seen a big swing away from institutionalisation in all areas relating to disabilities – physical, developmental and psychiatric disabilities included. This is clearly a good thing; but let us examine the corollary.

Not living in an institution means living in the community – and what has the community done to make this possible? Clearly there has been some improvement, but much still needs to be done. I was reminded of this only last Sunday when I was attending the Human Rights Awards in Sydney. The Corporate Award, made to a business or organisation that actively promotes Human Rights and Anti-Discrimination through its business practices, went to *Link Disability Journal*,

a publication produced by and for people with disabilities. The award was collected by its Editor, Cecilia Lim from Adelaide, who said she was appalled at the difficulties that physically disabled people have in getting around Sydney. She could not believe the lack of access to buildings or shops or the complete impossibility of getting on public transport, clearly it was much easier in Adelaide.

The general shift from institutional models of care to community models means that the services that were once provided by or within an institution must now be provided in community settings by a variety of service providers. But are these sufficient, especially when other cultural and linguistic considerations must be taken into account, or is the duty of care falling onto the families?

I strongly suspect that in the case of families of non-English speaking background, they are the ones that are doing most of the service provision. Statistics certainly show that, in general, there is an under-utilisation of government services by non-English speaking background people. In the disability area, a Census of Disability Services taken last year revealed that disabled people of non-English speaking background were under-represented in mainstream services such as vocational therapy, diversional therapy, training centres, nursing homes, residential and holiday accommodation, rehabilitation services and recreational centres.

These services are available for all people with disabilities. Why aren't ethnic communities taking advantage of them? The answer to this question can be summarised as information, access and appropriateness.

Information means knowing that such services exist. For people who are not comfortable with English, it is very difficult to find out just what is available. Some of the Health Departments translate pamphlets into community languages, but my personal opinion is that the spoken word is a more effective means of communication. This could mean radio programs or television community service announcements in community languages. It could also mean a greater number of bilingual workers in many health and community services fields, so that they may pass on appropriate information.

Access means getting to the services. People in capital cities have access to a much greater range of specialised services than people in rural or remote areas. However, even those who live in big cities may find access impossible if they haven't got a car, or if the carer is not confident of taking the client out on her own. There seems to be a lack of recognition of local governments, and many services which could be managed at a local level are hampered by this bureaucratic failure of communication.

The last part of the equation, appropriate, refers to adapting mainstream services to the needs of people of non-English speaking background. When the *Federation of Ethnic Communities' Councils of Australia* (FECCA) carried out its review of the Federal Government's Access and Equity strategies, it expressed concern about the way the Department of Health, Housing and Community Services emphasised *Generalist Services* as the vehicle for service delivery. FECCA was also concerned about the Department's statement that:

*'Services to specific ethnic communities may be funded in regions where ethnic groups constitute a sizeable proportion of the population.'*

As I said, it is very comprehensive. Its scope is deliberately broad to ensure that no one who suffers discrimination is left without avenues for redress because of problems with definition. The purpose of the Act is to provide protection from unfair or discriminatory treatment because of a current disability or even because of a past or future one. It provides protection for those who are perceived to have a disability and to those who are discriminated against because of their association with someone who has a disability.

It must be stressed, however, that **different** treatment is not necessarily discriminatory. Discrimination only occurs where the different treatment is unfair and less favourable, and where the outcome is not quite equitable.

When the new Act becomes operational next March, discrimination on the grounds of disability will be unlawful in a number of areas: education, access to public facilities, accommodation, buying and selling land; in clubs, sport, entertainment and recreation; in the administration of Federal Governmental Laws and Programs; and in the provision of any goods and services, including those provided by Banks, Insurance Companies, Loan Agents, and Credit and Finance Institutions.

After March 1993, when the community has had a few months to grow accustomed to the idea of Disability Discrimination Legislation, people who feel they have been discriminated against will be able to lay complaints. These will be made directly to the Human Rights and Equal Opportunity Commission Offices or to one of their cooperating state agencies, such as the Equal Opportunity Commission here in Melbourne. Complaints may be made by the person with the disability who has been directly affected by discrimination, or by the person or organisation acting on his/her behalf. The Disability Commissioner will also be empowered to investigate areas of discrimination even if no formal complaints have been lodged; so an issue such as a culturally inappropriate disability service could well be examined by the Commissioner.

Where a complaint appears to involve an unlawful Act of Discrimination, the Disability Commissioner will attempt to reach a settlement by the process of conciliation. This is the method we use in working through Sex and Race Discrimination complaints and we think it is better than an adversarial method such as a Court of Law. It is much more user-friendly, much cheaper and has a better chance of bringing about long-term changes in attitude. If a satisfactory settlement of the problem cannot be arrived at through the process of conciliation, the complaint goes to a public hearing. However, in our experience to date in the other areas, most cases are settled by conciliation.

The Disability Commissioner will be responsible for community education measures such as issuing guidelines about good practices for overcoming disability discrimination in various fields. Another more specific task is the formulation of *Disability Standards* to be introduced in future regulations approved by Federal Parliament. For example, the Government may decide to set standards governing access to public transport, or for areas of employment, education and accommodation. Extensive consultations with organisations such as ADEC will take place before any standards are adopted.

I hope this information about the new Disability Discrimination Act is of interest to you and that you will certainly utilise the services of the Disability Discrimination Commissioner if need be. In fact, you will be able to make a complaint where an Act of Discrimination is proposed but has not yet happened. This is a positive step, as it may deflect some of the hurt that is invariably caused by the occurrence of an Act of Discrimination.

I will certainly pass on to my new Fellow-Commissioner the information that people of non-English speaking background do not, or cannot, use the available disability services to the extent that Australians of English-speaking background do, and offer any help that I can in reaching out to ethnic communities in Australia. I hope that you will regard both of us as allies in your continuing commitment to fight against the double disadvantage of disability and cultural and linguistic differences.

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