

Our Ref: LR1319/08

Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Department of the Senate
PO Box 6100
Canberra ACT 2600

By email legcon.sen@aph.gov.au

7 August 2008

Dear Committee Secretary,

Inquiry into the effectiveness of the Commonwealth Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality

Women Legal Services Australia (WLSA) welcomes the opportunity to make a submission to this Inquiry.

WLSA is a national group of community legal centres specialising in women's legal issues and a network of the National Association of Community Legal Centres. WLSA regularly provides advice, information, casework and legal education to women on family law and family violence matters. We have a particular interest in ensuring that women experiencing domestic violence are adequately protected in the family law process, and that disadvantaged women, such as those from culturally and linguistically diverse backgrounds, Indigenous women, women with disabilities and rural women are not further disadvantaged by the process.

Our member services advise clients on issues related to sex discrimination, including discrimination relating to pregnancy, maternity leave, carer responsibility and sexual harassment in the work place and in educational institutions. In many cases, the women we advise are Indigenous, have English as a second language or live with a disability.

WLSA endorses the submission made by the National Association of Community Legal Centres (coordinated by Kingsford Legal Centre), to which Women's Legal Services NSW contributed. In particular, we would like to emphasise the following recommendations:

1. A Commonwealth Equality Act should be introduced to replace the separate anti-discrimination enactments, and provide full coverage over a broader range of grounds, implementing the protections under ICCPR.
2. This inquiry should form part of a lengthier, more extensive review of legislation to promote equality in Australia.
3. A national consultation into the introduction of a Charter of Rights should be undertaken, and should include a review of current anti-discrimination legislation.

4. The framework of the Act should be reviewed and amended to include a scheme of positive duties, with the capacity to monitor and enforce these duties.
5. The Act should be amended to ensure that Australia's international obligations with respect to women's rights are fully implemented, including a general prohibition of discrimination.
6. The Act should provide better protections against discrimination involving both sex/gender and other attributes such as race or disability.
7. All permanent exemptions to the Act should be removed, and the Sex Discrimination Commissioner should have the power to grant time limited exemptions (up to 12 months) where an application demonstrates that no other practicable or reasonable step, other than the exemption can be taken.
8. The Sex Discrimination Commissioner should have power and resources to enquire into, regulate, monitor and enforce legislative responsibilities to prevent discrimination and promote gender equality.
9. The Sex Discrimination Commissioner should have a statutory responsibility to independently monitor and report to parliament on gender equality.
10. The Sex Discrimination Commissioner should have power to commence applications for enforcement of legal responsibilities without needing an individual complainant, for example for persistent breach of standards, or of the Act in a workplace, industry etc.
11. There should be greater access to legal advice and representation for individual complainants, through changes to legal aid guidelines.

We welcome the opportunity to participate in this inquiry. We hope that this inquiry will be the initial stage of an extensive review of legislation relating to the elimination of discrimination and the promotion of equality, and we look forward to contributing further.

Yours sincerely,

Edwina MacDonald
Law Reform Coordinator