

Committee Secretary

Senate Legal and Constitutional Affairs Committee

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**Domestic Violence Victoria Submission to the Senate Committee on Legal and
Constitutional Affairs**

**Inquiry into the Human Rights and Anti-Discrimination Bill 2012 – Exposure Draft
Legislation**

Domestic Violence Victoria (DV Vic) welcomes the consolidation of anti-discrimination legislation and the enhanced protections it will afford victims of discrimination. We are disappointed however that the status of being a victim of family or domestic violence has not been included as an attribute in the exposure draft legislation. We are writing to urge the Commonwealth to provide for express protection for victims of domestic violence in the consolidated Anti-Discrimination Law. This is urgently needed in order that victims of domestic violence be protected from unlawful discrimination. As the peak body for family violence services in Victoria we are acutely aware of the immediate and ongoing harm experienced by victims of violence not only as a result of their experiences of violence, but in the form of discrimination on the basis of that experience in many areas of life including the workforce. Employment legislation on its own does not adequately protect employees from discrimination on the grounds of domestic or family violence.

Enacting an Anti-Discrimination Act that includes provisions to protect victims of domestic violence from discrimination is an historic opportunity for Australian Government leadership on this issue and to complement the suite of existing legislative and other reforms on violence against women that have been introduced by the current government including notably the *National Plan to reduce Violence against Women and their Children* and the work to address the impact of domestic/family violence on the workplace via enterprise bargaining agreements.

As noted by the UN Special Rapporteur on Violence against Women Dr Rashida Manjoo on her 2012 Study Tour of Australia, violence against women is already recognised as discrimination under international law, a corresponding enactment in domestic legislation would be viewed as a progressive step taken by Australia. Furthermore, inclusion of domestic violence as a basis of discrimination would be an important step in meeting Australia's obligations under the Convention on the Elimination of All Forms of Discrimination against Women:

- In General Recommendations No. 19 and No. 28, the CEDAW Committee states that gender-based violence against women is discrimination on the basis of sex and gender under article 1 of the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW).

This form of discrimination seriously inhibits women's ability to enjoy and exercise their human rights and fundamental freedoms;

- Pursuant to article 2 of CEDAW, States Parties are under an obligation to enact legislation that prohibits discrimination in all fields of women's lives and throughout their life span. Article 2 further imposes on States Parties a due diligence obligation to prevent, investigate, prosecute and punish acts of gender-based violence and discrimination. In practice, the CEDAW Committee has recognised that violence against women is both a cause and consequence of discrimination;
- Additionally, the *Declaration on the Elimination of Violence against Women* affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms. It further recognises that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over, and discrimination against, women by men. The Declaration notes that States Parties should exercise due diligence to prevent, investigate and punish acts of violence against women perpetrated by the state or private actors.

Furthermore, we believe that there is a significant community educative impetus that prohibiting discrimination on the ground of domestic/family violence could have. It would assist in raising awareness in community and business of the impacts of domestic/family violence on other aspects of public life, and would support victim/survivors to disclose violence without fearing repercussions in other areas of their lives.

We would welcome further opportunities to comment on this issue.

Fiona McCormack

CEO