

**Clifford, Julia (SEN)**

**From:** Robyn Willis [robynwillis368@hotmail.com]  
**Sent:** Wednesday, 23 April 2003 11:34 AM  
**To:** Legal and Constitutional, Committee (SEN)  
**Subject:** Submission re Inquiry into the provisions of the Australian Human Rights Commission



Dear Madam /Sir

I am writing in relation to the Senate Legal and Constitutional Committee Inquiry into the provisions of the Australian Human Rights Commission Legislation Bill 2003.

I wish to register my concerns about this Bill. I ask that you consider my submission during your deliberations of the Bill.

With reference to the fact that the Bill:

- provides for the restructure of the Human Rights and Equal Opportunity Commission (HREOC) and its renaming as the Australian Human Rights Commission;

I am not concerned about the change of name in itself. However I am concerned if the Government's proposed change of name implies a diminution of the Commission's responsibilities, functions and activities.

I am concerned with the proposed restructure of the Commission:

- creates an executive structure of a President and three Human Rights Commissioners;

I am concerned that the current 3 specialist commissioners will be replaced by 3 generalist commissioners. I do not support this change. This change devalues the premium normally given to specialised areas of knowledge of human rights in this professional workplace. I believe the specialist commissioners' professional insight and experience with the accumulated jurisprudence on complaints determination offers better protection for our legislated human rights. I also believe that this change could undermine the Commission effectiveness in addressing breaches of human rights and that some legislated human rights, seen by some as politically correct, may be marginalised. I seek your support in opposing the proposed change.

- makes education, dissemination of information and assistance central functions of the new Commission;

I agree education and dissemination of human rights and equal opportunity information is an important function of the Commission, but I do not support making education and dissemination, the central function of the Commission. I am very concerned that the Bill proposes to circumscribe the HREOC's ability to participate in court cases. I am also very concerned that the Bill proposes to prevent the HREOC from awarding damages or compensation. I firmly believe these changes would weaken the HREOC's capacity to continue their important work for the victims of human rights violations. I ask for your support in viewing this proposal with critical concern.

- requires the Commission to obtain the Attorney-General's consent before exercising its power to seek leave to intervene in court proceeding (unless the President was a federal Judge immediately before appointment, in which case the Attorney-General must be notified);

I believe this provision of the Bill causes the greatest concern. I do not accept that the Commission should be required to obtain the Attorney-General's consent before seeking leave to intervene in court proceedings. The HREOC is statutory body and already works within constraints as its competence or jurisdiction is determined by legislation. I believe this provision will diminish the Commission and its work. While the government claims that it is promoting human rights, its Bill is clearly designed to burden the Commission with further constraints. Without doubt, this provision creates the potential for conflict of interest between the

Attorney-General, the Commission and particularly when the Commonwealth itself is party to court proceedings. I believe this provision also fails to recognise that any government has the potential to exploit its power against individuals. It is potentially problematic that the Attorney-General is a politician and vulnerable to the vagaries of political opinion about human rights. It is disappointing that internationally recognised and domestically legislated human rights are still contested in the national political arena. This provision creates grave concern and I seek your support to reject this Bill.

- Removes HREOC's power to recommend the payment of damages or compensation following inquiries into certain types of complaints.

Clearly this provision questions the Government's commitment to human rights. Removing the HREOC's power to award damages and/or compensation is of the greatest concern. If complainants are to receive any sense of natural justice, the Commission must investigate complaints and make awards for damages and compensation when a case meets the narrow criteria established by the legislation. By emasculating the HREOC, the Government will not promote and protect the human rights for our citizens. Please tell the Government that Australians want the protection offered by our legislated human rights and we reject the Government's attempts to restrict and diminish, the HREOC's important and essential work. I urge you to reject this provision.

Many thanks for the opportunity to present this submission.

Yours sincerely

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